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ABSTRACT

The findings and recommendations of a two-day conference on the civil and human rights of inmates of Montana's correctional institutions are contained in this report. The views of private citizens and experts from local, state, and federal organizations are presented in edited form under seven subject headings: existing prison reform legislation, the role of state government in corrections, corrections philosophy, the history of corrections in Montana, the role of women in corrections, the juvenile offender, and alternatives to traditional concepts of corrections. Key issues were the special needs of female, American Indian, and juvenile offenders and the need for a viable corrections philosophy as a foundation for positive change in Montana's corrections program. Recommendations based on the conference findings include a study to explore alternatives to incarceration, creation of an inmate advocate position, a center to coordinate services to women offenders, and legislation to protect the rights of juvenile offenders. Additional recommendations, in view of the disproportionate number of American Indians in the Montana prison population, are that an American Indian serve on the parole board and that the Department of Institutions, in cooperation with the Indian tribes, hire at least one person especially concerned with alleviation of the cultural and correctional problems of the American Indian offender. (JH)

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Corrections in Montana: A Consultation

A CONSULTATION ON CORRECTIONS IN MONTANA

— A report prepared by the Montana Advisory Committee to the United States Commission on Civil Rights

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LETTER OF TRANSMITTAL

The Montana Advisory Committee
to the U.S. Commission on Civil Rights
January 1979

MEMBERS OF THE COMMISSION
Arthur S. Flemming, *Chairman*
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Louis Nuñez, *Acting Staff Director*

Dear People:

The Montana Advisory Committee to the U.S. Commission on Civil Rights, pursuant to its responsibility to investigate civil rights problems in its region, submits this report on the corrections consultation held in Billings, Montana, on December 13 and 14, 1977.

During the previous year, members of the Montana Advisory Committee listened to concerns of inmates at the Montana State Penitentiary and visited prison facilities. Data were developed on the extent to which subgroups of the prison population because of their sex or race were denied opportunities, advantages, and rights afforded to the general population. The Advisory Committee was concerned about allegations that minorities were treated differently from whites in terms of prison assignments and visitation privileges.

Though there was ample documentation to demonstrate that the number of Native American inmates in the Montana State Penitentiary was far out of proportion to their representation in the general population of the State, information was lacking as to what caused this disparity. There also was a dearth of information to indicate the extent to which, as alleged, incarceration of Indian inmates was detrimental to their rehabilitation, values, and beliefs.

In light of these concerns, the Advisory Committee conducted a consultation on corrections in Montana to examine standards used for the treatment of inmates and for providing opportunities for their welfare, training, and rehabilitation. The Committee sought to detect any disparate treatment of inmates because of race and sex. Although female and juvenile offenders are not housed at the Montana State Prison, specific issues affecting their incarceration were also addressed by the Committee.

The purpose of the corrections consultation was to collect information that would enable State representatives to draft legislation assuring the basic civil and human rights of inmates of correctional institutions in Montana. It also provided a forum for the discussion of existing prison reform legislation, allowed experts to explore alternatives to traditional concepts of corrections, informed the public about the correctional institutions in Montana, and encouraged citizen participation in the correctional system.

This report encapsulates the various sessions of the consultation. Participants stated that, in order for positive change to take place in the corrections program in Montana, a viable corrections philosophy would have to be developed. They further concluded that the public remained uninformed of the goals and objectives of Montana's correctional institutions; hence, diverse approaches within the corrections system exacerbate public confusion. Alternatives to incarceration were much discussed and a great deal of emphasis was placed on the need for upholding those rights guaranteed to prisoners.

The need for expediting the rehabilitative process, with special consideration given to female, minority, and juvenile offenders, was also a key issue of discussion. Traditional values concerning women and juveniles, as expressed in general American culture, were found to place a disproportionate hardship upon those two groups as they encounter the criminal justice system.

We urge you to consider this report and make public your reaction to it.

Sincerely,

Ernie Bighorn, Chairperson
Montana Advisory Committee

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ACKNOWLEDGMENTS

The Montana Advisory Committee wishes to thank the staff of the Commission's Rocky Mountain Regional Office, Denver, Colorado, for its help in the preparation of this report.

The investigation was the principal staff assignment of Norma Jones with writing assistance from Cal E. Rollins and William Levis. Field assistance was provided by Thelma Stiffarm, consultant. Cathie Davis, Wyona Hill, Esther Johnson, and Linda Stahnke provided support assistance. The project was undertaken under the overall supervision of Dr. Shirley Hill Witt, Director, and William F. Muldrow, Deputy Director, Rocky Mountain Regional Office.

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Introduction

During the latter part of 1976, members of the Montana Advisory Committee to the U.S. Commission on Civil Rights met in Deer Lodge, Montana, to hear concerns of inmates at the Montana State Penitentiary and to visit the facility. The dialogue between the Advisory Committee, prison officials, and inmates focused upon civil and human rights in corrections institutions.

At that time, American Indian organizations expressed concern about the treatment of Indians, the largest identifiable minority group in the prison, and about the quality of inmate rights. An Advisory Committee member stated:

> When 23 percent of the prison population is Native American compared with the fact that Native Americans represent 5 percent of the total Montana population, one must ask the question: Why is this so, and is the Montana justice system indeed a justice system equitable to all?[1]

Since the Advisory Committee meeting in 1976, inmate unrest has been prevalent. During a period of inmate uprising in 1977, Warden Roger Crist told newspaper reporters, "Inmates will remain locked in their cells until the hollering, yelling, and small fires cease."[2] The inmates of all races were concerned over work release programs, access to education, disciplinary procedures, legal services, and mail censorship. These concerns were similar to those discussed in the U.S. Commission on Civil Rights' national prison project that began in 1973. Through a series of State Advisory Committee investigations, the Commission sought in the prison study to develop data on the extent to which subgroups of the prison population because of race or sex were denied opportunities, advantages, and rights afforded to the general population.

It was perceived by members of the Montana Advisory Committee that the rights of inmates was an extremely unpopular issue in Montana. Persons in and outside the justice system repeatedly called for stricter disciplinary procedures and the cutting back on prison rights. Warden Crist observed: "The prison population is continuing to rise in Montana. This is because the public is demanding stiffer sentences for offenders."[3]

Because of the rise in the prison population, the treatment of minority inmates became all the more important to the Advisory Committee. Allegations about the practice of criminal justice in Montana suggested that minorities were treated differently from whites in terms of prison assignments and visitation privileges. Studies in 1976 estimated that Montana's prison population would rise from 550 inmates then at Deer Lodge to 803 by 1984. Projections on the percentage of Native Americans incarcerated indicated that it could climb to over 40 percent of the total prison population.[4]

The Advisory Committee observed that the large proportion of Native American inmates at the Montana State Penitentiary has been well documented; however, there was no information concerning the extent to which this disparity caused discrimination against Indian inmates. The Committee also found a lack of information on the possible effect of racial discrimination on rehabilitation, Indian values, and beliefs. Consequently, the Advisory Committee decided that a consultation on corrections in Montana should be held that would focus on standards in treatment and opportunities and on the application of such standards to the detection and prevention of disparate treatment of inmates because of race and sex. Although female and juvenile offenders were not housed at the Montana State Prison, specific issues affecting their incarceration would also be addressed.

The purpose, then, of the corrections consultation was to collect information that would enable State Representatives to draft legislation assuring basic civil and human rights to inmates of correctional institutions in Montana. The consultation would, in addition, provide a forum for discussion of existing prison reform legislation, allow experts to explore alternatives to traditional concepts of corrections, inform the public about the cor-

rectional institutions in Montana, and encourage citizen participation in the correctional system.

The consultation, "Montana Corrections—1977," was held at the Holiday Inn West in Billings, Montana, on December 13 and 14, 1977. The 2-day conference was divided into topic areas, and experts from local, State, and Federal organizations, along with private citizens, were invited to participate. Panel discussions were held to review a number of corrections issues. Each panel was moderated by a member of the Advisory Committee or a participant who introduced the panelists and solicited responses and questions from the audience. (See appendix A for agenda.)

The 500-page transcript of the proceedings has been edited into this report with summaries of issues and recommendations. Statements made by conference participants have necessarily been edited for readability. All testimony has been reviewed by each speaker for accuracy.

The following are edited views expressed during the consultation and summaries of each presentation. Headings are supplied by the editors and do not necessarily follow the consultation agenda. Some presentations made by participants do not appear in this editing of the transcript. The agenda has been revised from that originally published to reflect those speakers who actually participated in the consultation.

Ernest C. Bighorn, chairperson of the Montana Advisory Committee, opened the consultation on December 13, 1977, at 9:00 a.m. After introducing members of the Advisory Committee, he outlined the function of Advisory Committees to the U.S. Commission on Civil Rights, reviewed the conference agenda, and explained consultation procedures. William H. Levis, attorney for the Rocky Mountain Regional Office, discussed laws affecting the corrections process in Montana.

Mr. Bighorn said:

This conference is being held pursuant to rules and regulations applicable to Advisory Committees and according to other requirements promulgated by the U.S. Commission on Civil Rights. The Commission, an independent, bipartisan, factfinding agency of the Federal Government, was established in 1957 and authorized:

1. To investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, sex, religion, or national origin;
2. To collect and study information concerning legal developments which constitute a denial of equal protection of the laws under the Constitution;
3. To appraise Federal laws and policies with respect to denials of equal protection of the laws;
4. To serve as a national clearinghouse for civil rights information; and
5. To investigate allegations of voter fraud in Federal elections.

The U.S. Commission on Civil Rights has constituted Advisory Committees, such as ours, to advise it of relevant information concerning matters within its jurisdiction and of mutual concern in the preparation of Commission reports to the President and Congress. The Advisory Committees also may receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the Committees, and attend, as observers, any hearings or conferences which the Commission may hold.

The conference today and tomorrow will feature panel discussions of corrections issues. The first panel will discuss rights of inmates, and than legislative alternatives will be addressed. A panel on women in corrections and a discussion on juveniles in corrections will be held this afternoon. The last panel today will discuss community corrections.

The consultation will begin tomorrow with a panel on the care and treatment of juveniles. Following will be two panels, one of which will provide a look at some other correctional systems. The second panel will discuss Montana's correctional system. We will conclude with a general session during which time anyone may make a short presentation.

Every effort has been made to invite the most qualified and exciting panel participants, knowledgeable about the topics that will be discussed in the next 2 days. After individual presentations are made, the panel moderator will invite questions from the audience and other participants. This conference will provide the basis for a written report by the Advisory Committee.

Notes to Introduction

1. Maria Elena Federico, statement to the Montana Advisory Committee.

2. *Great Falls Tribune*, June 1, 1977.

3. Ibid.

4. Montana Council on Criminal Justice Standards and Goals, *Montana Justice Project: 1974–1976*; Urban Management Consultants, *Profile of the Montana Native American*, August 1974.

Laws Governing Corrections in Montana

William Levis, Regional Attorney, Rocky Mountain Regional Office, U.S. Commission on Civil Rights

According to the 1970 census, 649,409 persons reside in Montana; nearly 96 percent are white, 0.3 percent black, 1.1 percent Hispanic, and more than 3 percent are American Indian. A 1974 profile of the Montana Native American done for the State by Urban Management Consultants of San Francisco found 87 American Indians at the Montana State Prison—36 percent of the inmate population.

Information supplied by the Montana Department of Institutions breaks down the percentage and number of new inmates at the prison for fiscal year 1974 through 1976. The percentage of women inmates varied from 4.3 percent in 1974 to 2.4 percent in 1976. While female prisoners make up an extremely small percentage of the inmate population, the same is not true of blacks, Hispanics, and American Indians. Although they constituted no more than 3.7 percent of the State's population (two-thirds live on reservations) American Indians made up 23 percent of the new inmate population in 1974, 14.6 percent in 1975, and 13.9 percent in 1976. Blacks, who compose 0.3 percent of the State's population, were 1.6 percent of the new prisoners in 1974, 1.8 percent in 1975, and 0.5 percent in 1976. Hispanics, 1.1 percent of Montana's residents, were 3.2 percent of new inmates in both 1974 and 1975 and 2.4 percent in 1976. It is evident, however, that the percentage of white inmates is increasing—from 72 percent in 1974 to 83 percent in 1976. Most alarming is the average age of new prisoners. In fiscal year 1974, 56 percent of the new inmates were between 18 and 25 years of age. Two years later the percentage had jumped to 62.5 percent.

Much change has occurred in Montana since the old prison was built in Deer Lodge in 1870. A new correctional facility has been constructed, inmates have had many of their civil rights defined, and, as recently as the 1977 Montana legislative session, the rights of juvenile offenders have been updated in the code. House bill 738, which took effect in May 1977, revises the Youth Court Act and defines the detention of persons under the age of 18. Specifically, the act limits the incarceration of youths before trial and clearly defines the facilities in which they can be housed after conviction [Sections 10–1203(17–18) and 1211, R.C.M.]. Montana has three youth correctional facilities for the rehabilitation of delinquent youth: the Pine Hills School in Miles City, the Mountain View School in Helena, and the Swan River Youth Forest Camp [Section 1–1203(17), R.C.M.].

Both the juvenile facilities and the State prison are under the control of the Department of Institutions [Section 80–1403, R.C.M.]. The warden or superintendent is responsible for the immediate management and control of each institution, subject to department policies and programs [Section 80–1406, R.C.M.]. The warden of the State prison must have a background in education and experience in directing a training, rehabilitation, or custodial program in a penal institution [Section 80–1902, R.C.M.]. According to Montana statute, the primary function of the State prison is to provide facilities for the custody, treatment, training, and rehabilitation of adult criminal offenders [Section 80–1901, R.C.M.].

When a person is convicted of a crime, the offender loses only those constitutional and civil rights specifically enumerated by the sentencing judge—rights necessary for rehabilitation and the protection of society. Once the sentence has expired or the offender has been pardoned, all civil rights and full citizenship are restored [Section 95–2227, R.C.M.]. Upon sentencing, the judge may prohibit the defendant from holding public office or from owning or carrying a dangerous weapon, limit the defendant's freedom of association and movement, and evoke any other limitation reasonably related to rehabilitation and the protection of society [Section 95–2206, R.C.M.].

What rights do remain when an inmate is sentenced to the State prison? The conditions and

practices in a prison must not subject the inmate to cruel and unusual punishment in violation of the 8th and 14th amendments. In Montana, the law makes it clear that a prison official mistreats an inmate by assaulting or injuring the prisoner; by intimidating, threatening, endangering, or withholding reasonable necessities from the inmate to obtain a confession or for any other purpose; or by violating any other civil rights. If convicted, the official may serve up to 10 years in the State prison [Section 94-8-113, R.C.M.].

Other rights retained by the prisoner include freedom from discriminatory punishment inflicted merely because of beliefs (religious or otherwise). The U.S. Supreme Court has held (in *Johnson v. Avery*) that the right to petition the courts for the purpose of presenting complaints may not be denied or obstructed. Prescreening of legal documents by prison officials has been held to impair an inmate's right to petition the courts.

Montana prohibits persons from communicating with inmates without the permission of the warden [Section 94-7-307(2), R.C.M.]. It is questionable whether such a general law is constitutional in light of court rulings that such restrictions must be in the interest of security, order, and rehabilitation. Reasonable opportunities must also be afforded all inmates who wish to exercise the religious freedom guaranteed by the 1st and 14th amendments. In addition, inmates must be informed of all conduct that constitutes a breach of discipline and of the penalties and sanctions imposed for such conduct as well as the procedures under which disciplinary action is taken.

Montana is a party to the Western Interstate Corrections Compact, which allows it to contract with other States in the West for the incarceration of inmates [Section 95-2308 et seq., R.C.M.]. State Attorney General Mike Greely has ruled that the compact also allows Montana to contract with the Cheyenne River Sioux Tribe in South Dakota for the rehabilitation of the State's Indian inmates. The attorney general feels that the compact's definition of "States" is broad enough to include Indian reservations. [Also see section 80-1907, R.C.M.]. He has said that such a program will allow American Indian felons to participate in rehabilitation programs according to traditional Indian values. Montana law also allows the Department of Institutions to contract with Indian reservations within the State for residential and educational services for inmates [Section 80-1419, R.C.M.].

All inmates who are incarcerated in another State subject to the Western Interstate Compact are at all times subject to the jurisdiction of the State from which they were sentenced. The State that receives the inmates must provide regular reports of the prisoner's conduct to the sending State. In addition, the receiving State may not deprive any inmate of any legal rights the prisoner would have had if confined in the sentencing State [Section 95-2308, R.C.M.].

Once assigned to the Montana State Prison, several programs are available to rehabilitate inmates and to reward them for good work. The State Department of Institutions has adopted rules awarding "good time" credits to inmates employed in prison work and activities. Credits range from 5 days per month for self-improvement programs to 15 days per month for assignments outside the prison for at least 1 year [Section 80-1905, R.C.M.]. In addition, the department may establish an intensive rehabilitation center within the prison for certain inmates [Section 80-1909, R.C.M.] and furlough program for others [Sections 95-2217, 2219, R.C.M.].

Within the Department of Institutions, there are two boards that resolve inmates' complaints and consider parole and executive clemency requests. The Board of Institutions is composed of five members, no more than three from the same political party or congressional district. This board reviews grievances of institution residents; however, their recommendations to the institution's director are strictly advisory [Sections 82a-806 and 80-1407.1, R.C.M.].

On the other hand, the Board of Pardons has the power to release inmates on parole and to report on executive clemency to the Governor. The board is composed of three members, one of whom must have particular knowledge of the culture and problems of Native Americans. All members have academic training or work experience in related disciplines, such as criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling [Sections 82A-804 and 95-3203 et seq., R.C.M.].

Progress is being made in Montana corrections; yet improvements are needed. Recognition of

these needs have been shown in part by the introduction of several bills during the 1977 State legislative session. They include a proposal to appoint a committee to study Montana's correctional needs (senate joint resolution 4), a bill to abolish the parole system and provide for fixed prison sentences [senate bill 318], a resolution to design a criminal justice master plan (house joint resolution 63), and a bill to prohibit placement of status youth offenders in detention facilities (house bills 654 and 691). Although the proposals did not pass, they do articulate some of the concerns that have stimulated the Montana Advisory Committee to hold the consultation, "Montana Corrections—1977."

It is clear from comments made by corrections consultation panelists and participants at the proceedings that a definition of basic constitutional rights available to prison inmates in Montana is emerging. Although offenders are necessarily deprived of certain freedoms and particular rights and privileges, they cannot be deprived of constitutional rights.

While consultation participants were critical of various aspects of the corrections program in Montana, they were also supportive of what seems to be a new awareness level on the part of the State government, State social services, and community agencies involved in the administrations of corrections programs.

The Role of State Government in Corrections

Judith Carlson, representing Governor Thomas Judge, discussed Montana's involvement in corrections programs.

Judith Carlson, Office of the Governor

Montana has devoted a great deal of attention and energy to the problems of our institutions and to community programs treating the mentally ill and the developmentally disabled. It has also made demonstrable advances in the areas of corrections.

Few would contest the fact that the struggle against crime and the effects of crime is of primary importance to the people of Montana. The recent "Montana Futures Survey" indicated that citizens are willing to pay more taxes for highways and for law enforcement. Corrections, however, is probably the least understood aspect of the total criminal justice system. It generally addresses itself to the traditional goal of protecting the public by working for the prevention of crime and delinquency through effective correctional programs. According to a "National Strategy to Reduce Crime" prepared by the National Advisory Commission on Criminal Justice Standards and Goals, the American correctional system today appears to offer minimum protection for the public and maximum harm to the offender. This approach is clearly in diametric opposition to the goals which should be before us—of maximum protection for the public at a cost of minimum harm to the offender. This does not mean minimum sentencing or any other form of meaningless tokenism.

State government plays the major role in dealing with public offenders and the effects of their socially deviant behavior. The State Department of Institutions has the responsibility of managing our correctional services in Montana. Within its administrative responsibility, this department operates the State's only adult correctional institution, the two juvenile correctional institutions, and a work camp for young adults and juveniles. It also operates a postinstitutional placement and counseling program for juvenile offenders and the adult parole and probation field services programs. The department's recent efforts in adult corrections include a community-based program for female offenders and transitional community care for probationary and paroled inmates from the Montana State Prison.

In spite of these efforts, criminal statistics prepared by the Board of Crime Control show that, although Montana's crime rate ranks 36th among the list of States, it is the 7th highest in the country in the rate of crime increase. Over the last 5 years Montana's crime rate has been increasing at an average of 8.1 percent per year, and some of this increase is due to recidivism. There has been a dramatic increase in our prison population in the past 2 years.

The Department of Institutions will spend approximately $13 million in its correctional institutions and programs during fiscal year 1978. Clearly, the problems of crime and its effects are costly. Figures on recidivism nationally indicate strongly that society today is not effectively protected simply by incarcerating offenders, for many offenders return to crime shortly after release from prison. There is considerable evidence that the longer prisoners are incarcerated, the greater are the chances that they will return to crime upon their release. There is also evidence that many prisoners do not need to be incarcerated in order to protect society. For example, when the Supreme Court's *Gideon* decision overturned the convictions of persons in Florida prisons who had been convicted without representation by an attorney, more than 1,000 inmates were freed. Although such a large and sudden release might have been expected to result in an increase in crime, followup studies showed that the *Gideon* group had a recidivism rate of about half that of a similar group of prisoners released at the expiration of their sentences.

Montana's correctional problems are not unique. In the Governor's welcoming address to the delegates of the Montana Conference on Cor-

rections convened in May of 1973, he said, "Regardless of our present efforts we can still do a better job." That statement is still true today. He emphasized the need for a comprehensive State corrections philosophy and a need to translate that philosophy into systems, people, and programs that will get the results expected of them. That particular conference called for a centralized correctional administration as a foundation for future correctional planning and administration. Subsequently, the Governor established the Montana Council on Criminal Justice Standards and Goals to identify and aggressively address the needs of Montana's whole criminal justice system, of which corrections is a vital part.

The efforts put forth by that commission have now been published, and the suggested strategy and standards appear to be both sound and refreshing, in that they contain hope for the future. Under the Judge administration, the Department of Institutions created a corrections division as a centralized adminisitve agency within the department, which, for the first time, established an integrated unit for its total correctional responsibility. This achievement realized the goal of those pioneer efforts of the early 1970s.

An important dimension in developing and managing a human services organization such as the division of corrections is its management capability, leadership, and operational philosophy. However, probably no organization ever operates consisently on a particular management or treatment philosophy. The Montana Department of Institutions' correctional programs has had an inadequate conceptual framework for management planning and leadership. A correctional policy is a definitive statement explaining the goals of the correctional system to the public and to professionals in the system. Montana has had no correctional philosophy per se. In addition, Montanans have no clear idea of the overall objectives of the State correctional system, and this lack of communication has led at times to misunderstanding and public bewilderment. As a result, some activities are controlled consistently by constitution or legislative mandate, some are managed and controlled by consistent opinion, others by information systems, and still others by professional management or tradition.

One year ago, the Governor brought Lawrence Zanto back to the State as the new director of the Department of Institutions. Mr. Zanto has had an excellent record and reputation in Montana as a fair, able, and competent administrator. He has recently hired B.J. Rhay as administrator of the Division of Corrections. Mr. Rhay has had years of experience in corrections, has provided leadership in national correctional organizations, and is eminently prepared to provide the kind of leadership a corrections program deserves and needs. Thus, we have hope for the future in designing an effective system and in managing it purposefully.

The remaining deficiencies in the system reflect the fact that we have operated with an integrated correctional entity for only 2 years. It is extremely important to lay a solid base for future development.

The department has been awarded discretionary monies from the Law Enforcement Assistance Administration to analyze our present system and to develop a master plan for corrections. This effort will take 12 to 18 months. The master plan should provide for an integrated conceptual base on which correctional policy and programs can be founded.

Historically, Montana's system of laws included sentencing which permitted local application that was varied across the State. This discretionary framework was open to abuse and resulted in widely varying sentencing for similar crimes. Recent legislative action resulted in mandatory sentences for many crimes. That went into effect July 1, 1977. While mandatory sentencing was expected to result in a uniform application of laws, it remains to be seen if more rigidity in sentencing will permit the achievement of the overall goal of providing maximum protection to the public at minimum harm to the offender. There is considerable evidence that probation, fines, public service requirements, and restitution are less costly than incarceration and produce lower recidivism rates.

There is in this country a growing concern for the widespread abuses in correctional systems. In recent years, courts have intervened in prison management; in some cases, courts in other States have declared State prison systems in violation of the eighth amendment's prohibition against cruel and unusual punishment. A number of those

prison units have even been declared unfit for human habitation under any modern concept of decency.

The pressures for change in the American correctional system today are intense, and Montana is not immune from this pressure. No discussion of corrections would be complete without taking note of the victims who have been left behind. The Montana Legislature, at its last session, enacted the Crime Victims Compensation Act to provide some relief to the victims financially and to recognize the fact that victims of crime are worthy of public attention. The workers compensation division, department of labor and industry, was designated as the administering agency for this program, which becomes effective January 1, 1979. Cheryl Bryant of Billings has been hired to supervise the program and to administer its $390,000 biannual budget. This fund should be increased by Federal funds if and when Federal legislation which is now pending is passed. Rules for procedures are to be submitted and a brochure outlining the purposes and procedures should be distributed within the very near future. This is a worthy program and fills a long-standing gap in our system.

The U.S. Commission on Civil Rights-sponsored consultation on corrections is an excellent opportunity for interaction between correctional professionals, legislators, and concerned citizens on current and important correctional trends. The philosophy of normalization, deinstitutionalization, right to treatment, civil and constitutional rights of the incarcerated, various models of treatment, and alternatives to incarceration all need to be discussed frankly, openly, and honestly. We will be able to utilize this interchange to our advantage in our current master plan undertaking.

Judith Carlson said that the Governor had called for a corrections philosophy, yet to be fully developed, to give impetus to positive change in the corrections programs. According to Ms. Carlson, the public in Montana remains uninformed about the goals and objectives of the correctional institutions. Diverse approaches within the corrections system exacerbates public confusion, she said.

Corrections Philosophy

John Dicke of the American Civil Liberties Union, Melvin T. Axilbund of the American Bar Association, and Paul Spengler of Hero College in Billings shared their views of problems encountered when surveying corrections systems. Along with Polly Holmes, Montana State legislator, they discussed corrections philosophy. Richard Vandiver of the University of Montana raised issues of legislative involvement in corrections.

John Dicke, Regional Counsel, American Civil Liberties Union

I work for the National Prison Project of the American Civil Liberties Union located in Washington, D.C. We have in our project six lawyers and a significant number of staff people who work in litigation, lobbying, and legislative matters. The general policy and the feeling of the people in our project and of others throughout the country is that incarceration is excessively used and that the manner in which incarceration is many times administered (the poor food, significant overcrowding, the filth and vermin, the lack of classification procedures, of medical and psychiatric care, and of proper procedures in disciplinary hearings) constitutes cruel and unusual punishment and is, in fact, debilitating to the person incarcerated. We also believe that inmates have a constitutional right not to be debilitated.

These thoughts and feelings have been seconded by at least three courts in the United States—in Alabama, New Hampshire, and, in a recent decision, in Rhode Island. This last decision says that people have a right not to be incarcerated in a prison where the prisoners are subjected to cruel and unusual treatment.

The thrust, then, of our project is essentially twofold. The first is that no new prisons, county jails, or any kind of incarceration facilities should be constructed in the United States without the agency that is constructing them, or which is responsible for their construction, exploring every possible alternative to such incarceration.

We believe that the most appropriate way, if possible, to deal with offenders is through fines, through systems of restitution, through community-based probation, and through community-based halfway house systems. Our feelings are documented by the American Bar Association in a study released in October of 1975. This study indicates that community-based treatment facilities are, in fact, less expensive than incarceration; studies have also shown that incarceration is the most expensive way to deal with offenders.

The second thrust of our philosophy is that there should be the discontinuance of indeterminate sentencing in favor of fixed maximum terms. These terms should be imposed by the court after the person has been convicted.

An additional aspect of our philosophy is that, in most circumstances, the determinate sentence should not be in excess of 2 years. This would do away with arbitrary, discriminatory, excessive, and debilitating sentencing and we urge the following sentencing principles: 1.) Legislatures should define types of crimes where sentencing can occur. 2.) Criteria should be established for imposing sentences and grounds on which a court can exercise discretion in sentencing. 3.) Ground should be clearly defined for allowing the court discretion in determinate sentencing. 4.) Incarceration should be restricted to those persons whose records indicate that society can't be protected except by their incarceration; there is not a significant number of these people and the percentage of them with respect to the greater population of offenders is rather small. 5.) With respect to sentencing, we believe in fines and restitution systems; community-based treatment would be preferable to sentencing to an institution. 6.) At the time of sentencing we believe that courts should be required to state in the record specific reasons for imposing sentence and that there should also be, after the sentencing, a system of rapid appellate review. 7.) The obligation to prove the necessity of sentencing should be totally on the shoulders of the prosecution in the State.

Concomittant with our feeling that there should not be indeterminate sentencing is our feeling that the parole system should be entirely eliminated. The parole system is based on the premise that institutions provide rehabilitation. It is our feeling that generally they don't. The parole system is one which fosters the feeling among inmates that they have to get into many programs in the institution in order to impress the parole board. They don't really get into these programs necessarily for their own rehabilitation.

Frequently parole boards look only at an inmates' disciplinary record while he's been in prison. It is well known that guards and prison officials give you good reports if you're a nice, quiet person; if you're not doing anything productive; if you're not filing any petitions for writs of habeas corpus; and if you're not filing any lawsuits.

We believe that the system should have programs in which people can be released from prison during the day to go out and pursue meaningful jobs in the community. We also believe that people who do not qualify for work release programs because of some peculiarity in their record should be able to have the opportunity to pursue meaningful and useful jobs within the prison setting. In addition, we believe in more educational release programs within the prison, programs which will allow prisoners to get into high school and college situations during the daytime and come back at night to continue their sentences.

One of our biggest concerns is disciplinary hearings. A decision, *Wolf v. McDonald*, of the U.S. Supreme Court, sets the constitutional standard for disciplinary hearings within prisons. It is our feeling that the procedures and guidelines that have been set by the Supreme Court are inadequate. The result is that the hearings in prisons are many times kangaroo courts, a travesty. They're conducted in many instances by judges who are not neutral and detached but merely work for the institution and find everybody guilty as a matter of course.

The procedures set down by the Supreme Court at the present time don't require or don't mandate that one be able to cross-examine witnesses and only allow people to call witnesses on their own behalf in circumstances where security allows such a procedure. It is our feeling that not only should one have notice of a hearing, but one should also be able to present in all cases witnesses on one's own behalf and should be able to cross-examine such witnesses. The hearing should be before a neutral and detached judge. We also believe that there should be the right to counsel at that hearing.

We also believe that there should be written record of a hearing. No hearing record gives an institution carte blanche to do virtually anything it wants at a hearing. Finally, we believe that prisoners should retain all constitutional rights that aren't proscribed by absolute demands of prison security and rehabilitation. We believe that prisoners should be able to read anything they want; they should be able to practice any religion they wish; they should be able to correspond with their attorneys and their people on the outside through mail that's totally uncensored. We believe prisoners should have unlimited and frequent access to the courts. People should be encouraged to go to the law library in prisons, to be aggressive, to write things, to file things.

We also believe that prison inmates should have adequate medical care and more psychiatric care. There is virtually no psychiatric care in many facilities. Obviously, we believe there should be freedom from cruel and unusual punishment. Additionally, we believe that the basic family structure should be preserved as much as possible by allowing conjugal visits and visitation on a more regular basis with the family. Finally, we believe that people who are ex-offenders and have done their time should be able to return to society without a whole host of disabilities facing them, such as lack of their right to vote and lack of their right to have a driver's license.

Melvin T. Axilbund, American Bar Association

In the 9 years from 1968 until the end of 1976, the population in Federal and State correctional institutions climbed from under 200,000 to a total of 283,000 persons. We have not had a recent census of the population in jails, but reliable data on specific institutions indicates that the population has climbed there too. This development has exacerbated and brought into sharp focus problems of long standing in the correctional sector of the criminal justice system.

Contemporary doctrine, reflected in professional standards that I have referred to, holds that a correctional facility ought not to be constructed for more than 400 persons. The estimated cost of traditional corrections construction is about $34,000 a bed. That means that $13.7 million would be required to deliver the average facility for 400 individuals. Just in 1976 alone, accommodating the 29,000 new prisoners in 400-bed correctional facilities would have required 73 new facilities, or 6 per month. We did not get that volume of construction, although we did get a substantial amount of it. The capital outlay for 1976 facilities, had all 73 been built, would have exceeded $1 billion.

There is every reason to settle on $10,000 as a national average cost of keeping a person in a facility for a year, including the capital expense depreciation. That means that the imputed maintenance cost of keeping just these 29,000 additional persons for the last year alone was over $293 million.

The Commission on Correctional Facilities and Services of the American Bar Association, for which I work, has not had as its major focus a direct effort to change prison conditions. Rather, we have tried to limit institutional population through pretrial diversion and improved probation services to speed a person's passage through an institution and facilitate their return to the community upon release.

The association's principal direct work related to improving penal conditions has been the responsibility of the Joint Committee on the Legal Status of Prisoners. It published standards in April. The association, in undertaking 3 years ago to develop standards, sought to close a gap in the coverage of its standards relating to criminal justice and to address an increasingly significant problem. The Standards relating to the Legal Status of Prisoners are not a mere recitation of the latest Supreme Court case, nor an explication, which we hope is literate, of the best correctional practice that can be found in some jurisdiction. Rather, they're a product of a testing of asserted values; and what we have in the Black-letter standards are those practices that the committee feels ought to be recognized as aspirations for correctional institutions.

Before it could examine each of the particular aspects of institutionalization to which it directed its attention, the joint committee had to adopt a general principle that would provide a test for each of its particular standards. The committee wrote:

> Prisoners retain all the rights of a free citizen except those on which restriction is essential to assure their continued confinement or to provide reasonable protection for the rights and physical safety of all members of the prison community.

In essence, this means that after examining all of the asserted rationales for restricting individual rights during confinement, there were only two which the joint committee felt stood up. About the second of these, the safety concern, I don't think there is any debate.

Regardless of the factual context, my rights stop where yours begin. In our prisons we have persons who have been unable to recognize this limitation on individuality, and it is appropriate, therefore, that those measures be taken that will enhance the safety of the entire prison community. Additionally, of course, it is necessary for correctional authorities to take action to insure that the judicially-imposed limitation on liberty of those who have been sentenced is carried out and not defeated through escape.

The Supreme Court has recognized that there is a third rationale, which, in its judgment, is an adequate basis for other correctional actions. It is that some actions can be justified because they tend to produce rehabilitation of inmates. The joint committee, as you will see when you inspect the ABA standards, has rejected that rationale. The joint committee agrees that many prisoners could and would justify benefit from habilitative services. You'll find our language on that in Standard 5.7. But we do not believe that those services can be effectively rendered when they are backed up by compulsion, the compulsion of parole systems or the compulsion of the disciplinary process. As a result, the ABA standards provide that participation in a program or activity which is not essential to the maintenance of the institution should be voluntary and may not be compelled. An implication of this standard is that an inducement other than the disciplinary sanction or the parole sanction will be necessary if prisoners are to be lured from their too frequent idleness.

The joint committee felt that the most effective inducement is money, the stuff on which most of our economy and society runs. Therefore, the ABA standards suggest the payment of free world equivalent wages for work that is of economic benefit to the institution.

Paul Spengler, Criminal Justice Lecturer,

Hero College, Helena, Montana

The rights of offenders can be a subject of heated debate in corrections. Much of the public believes that criminals shouldn't have rights, and it demands more punishment. Others call for more rights than present correctional practices may give the offender.

Caught between these opposing views are Montana correctional administrators who must protect the constitutional and statutory rights of offenders while maintaining order and discipline. Offenders' rights are constantly being interpreted by the courts—both State and Federal. Reams of material have been written on this often volatile subject.

Mr. Axilbund reminded us that just about every committee that has studied or is studying corrections has its special set of standards on the rights of offenders plus other areas in corrections. The proliferation of case law illustrates the need for Montana's correctional administrators to respond to the law in order to prevent judicial intervention. Administrative convenience must not justify noncompliance with an offender's rights. Difficult as it may be, every effort should be made to insure that offenders are granted their rights under the law. If we protect the rights of the minorities and powerless, we, in turn, strengthen our own.

Rights must be constantly secured in a free society. Permitting the erosion of rights, even among criminal deviants, may hasten the day when all of our rights are correspondingly diminished. But even the most conscientious corrections person may be confused as to what rights an offender has and how they should be implemented. This is where the Corrections Task Force Report of the Montana Justice Project is useful.

The committee studied corrections in Montana for 2 years and published its report last year. A major chapter in the report is the rights of offenders, which consists of 19 standards. Standards serve as specific levels of performance with which to compare present practice when dealing with offenders and their rights under the Constitution and State and Federal law. Some standards may be useful or are merely implemented; others may serve as a reminder of what should be done in the near future. All standards were written to be used and not ignored. Four standards have to do with access to the courts, legal services, legal materials, and searches. Access to the courts gives offenders the right to challenge the legality of their conviction or confinement, seek a remedy for unlawful treatment or violation of rights while under correctional control, and to seek relief from civil legal problems. Oftentimes prisoners do have civil legal problems, and we don't always consider those when we're talking about litigation in the courts.

One standard calls for transporting offenders to the courts if the need arises, consistent with the reasonable requirements of correctional security. Offenders should have access to legal help from attorneys and counsel substitutes, who are law students, correctional staff, inmate paraprofessionals, and other trained paralegal persons. These legal services may be used in numerous circumstances, such as disciplinary proceedings in the correctional facility that imposes major penalties and deprivation, probation revocation, and parole grant—parole revocation hearings.

Help from other inmates should be prohibited only if legal counsel is reasonably available in an institution. Correctional staff should assist inmates in making confidential contact with attorneys and lay counsel. This includes visits during nonnormal institutional hours, uncensored mail, and phone calls. Inmates should have access to law materials to help themselves with their legal problems.

The Montana prison is increasing its law library but this standard could present problems in county jails. The task force decided that local law enforcement agencies should make arrangements for inmates of jails to have reasonable access to legal materials. But this does not mean that a sheriff must stock a law library as the warden does.

Another standard has to do with searches, a vital tool of correctional control. The American Civil Liberties Union has stated that substantial limitations on one's privacy can be expected in prison. But this is not inconsistent with reasonable rules and procedures made known in advance to the inmates. The standard calls for offenders in the

community to be subject to the same search and seizure rules that apply to the general public. All State correctional facilities should make a plan for regular searches of the facilities and persons, and unnecessary force should be avoided as well as embarrassment or indignity to the inmate. Technological devices should be used whenever possible instead of strip searches, and, lastly, the search plan should be published and all searches should be ordered only by top management officials.

Polly Holmes, State Legislator

Most of our corrections systems in America, I believe, are themselves fostering crime. We are methodically cultivating an ideal soil in which future crime will grow. The traditional corrections system is built on the principle that an offender can best be handled by confining him to a building full of disturbed, hostile, resentful lawbreakers, isolated from normal society, normal family and sex life, and from all responsibility. After years of this he should be expected to step back into the normal community and behave like an angel. We are dreamers.

William Leek, director of the South Carolina Department of Corrections, says: "There is massive evidence that general imprisonment, as it has been applied in this country, is a major contributor to crime, not a deterrent." Now, if it disturbs you that I should include Montana in this kind of castigation, then I'm illustrating, with you, exactly what I want to talk about in regard to the clients of the system.

The best way to start is by appreciating the fact that most of the employees of the system are knocking themselves out, often against impossible odds, to do the job that the public has given them to do through the legislature. What is needed is for the public to give them a new job analysis. We're simply going to have to find a more realistic way to treat lawbreakers.

Here in Billings, Rev. Ken Mitchell, among others, has found a more effective way. Ken Mitchell costs the State absolutely nothing, and yet he does more in 6 weeks in our county jail—and I think our county attorney and the judges would agree with this—than 20 years of what we call "correctional programs" do. What he does is to meet the client where he or she is, whose stomach is full of negative feelings—fear, guilt, anger, hopelessness—feelings that are always present in anyone who has been arrested. Ken accepts those feelings and expects them and encourages the people to express them. But he lets the person be who he is and encourages him to appreciate himself and the other people in the group, and helps him to get out of his system the rage that is clogging his thinking. And as a result, the client gets to the point where he can figure out for himself what he needs to do to change his behavior and become a more cooperative citizen.

This method works much better than either sheer punishment alone or telling the person how inappropriate his behavior is. Punishment has two purposes: it can provide shock value, and it makes everybody feel that the score is even. It makes us, the public, feel better because the dirty rat got what he deserved. But it does not make bad people good.

Last month our county attorney, Harold Hanser, reported that 85 percent of our thefts in Yellowstone County are committed by juveniles. Now, set next to this the fact that his office deals with five to seven cases of severe child abuse every week, and only about 15 percent of child abuse cases are ever reported. At what point, at what age, do we stop feeling sorry for the abused child and start blaming him or her for responding to that abuse? You have nothing but sympathy for him when he's 7 and scared and silent and too small to defend himself, but how do you feel about him when he's 12 and he's beginning to strike back, when he or she begins to do what anybody would do under the circumstances? Then suddenly we change our entire attitude towards him.

Now we say, "Good enough for him; he should know better; he brought it on himself." We forget that he's been repeatedly hurt until he's socially sick, and he's going to continue to be sick until somebody comes along who cares, who has the time to listen to him, and who knows how to help him. But he's not likely to get that in our system. Once he's in jail or reformatory or prison, there is no safe way to express his feelings of frustration and despair and resentment and everything else. He can't cry or he'd be ridiculed by his fellow inmates. He can't yell or hit or run because he gets sent to the hole, and that's not only miserable, it takes away his good time, and solitary confinement

sometimes in this State lasts a long time in the invisible bowels of our system.

We force him to put the lid on his feelings, and this is the worst possible way to treat human feelings if you ever expect to change them from negative to positive. The feelings of fear, anger, helplessness are an ever present reality, not only to the client but to all the officers who work with him, and if we don't learn how to handle feelings constructively, we're simply storing time bombs.

The second change that needs to be made is that we must deal with individuals rather than categories. At best, we've defined offenders by their crimes. At worst, we've defined offenders by the worst of their crimes. Judges have made the decision as to whether an 18-year-old boy should be sent to Deer Lodge on the basis of how much the old car was worth that his buddy stole in his presence, which made him an accomplice. Much more attention was given to whether the car was worth $50 or $150, which would make it a felony and make him defined for the next x-number of years as a felon, than was given to whether the boy was worth anything or not.

Each individual is a separate, unique entity, and if that unique human entity has not been recognized and cherished and encouraged to express itself, a natural result of this deprivation is crime; we should be expecting it. To punish the person by giving him the same dehumanizing treatment that he's had all his life is not going to cure him. It's going to make him worse. The only way to turn a bad actor around after his initial short shock treatment in jail is to tailor his treatment to his particular needs. We should concentrate not on what he deserves but what he needs in order to go straight. Sixty to 70 percent of the people in our prison are there because of alcohol or drug-related crimes. Many of these people need programs like the Lighthouse Program at Galen; it would do a lot more for them than sitting in prison for an extra 5 years.

What the average offender needs is, first, swift, sure, certain, short punishment. At the first sign of criminal behavior, even if he's only 10 years old, I'd rather see a 10-year-old spend a night in solitary confinement and then have some help than wait until he's 18 and put him in jail for a year. It doesn't take long in solitary confinement to make a person wake up to the realities of life and recognize that he needs some help. And then follow that with personal, individual, caring attention—"tough love," if you will—in the community, by someone who's not a member of the person's family and who is not paid to judge or grade the individual, but who's just there because he knows how to and wants to help.

The third change that needs to be made is that we must quit training people to be wards of the State and start training them for responsibility. If instead of taking care of the offender for long periods of time by feeding, clothing, and making his decisions for him in an unnatural, undemanding, meaningless way, we trained him in responsibility under close supervision in the community, where he would have to learn to support himself and his family and make restitution for his crime, we would be reducing crime instead of preparing the person to rely on it. And in the long run, it would cost less.

In the area of changing people's behavior, there are no experts. All we can do is testify to the experiences that have worked and those that have not worked in our little corner of the system. And there are many programs that have worked remarkably well.

At the Colorado State Reformatory, the goal of punishment has been replaced. They have developed an incentive program that primarily rewards good behavior instead of punishing bad behavior. They've eliminated all guard uniforms and have developed a variety of treatment and training alternatives. They're using a security system that's based on internal awareness rather than external watching.

At the San Francisco County Parole Outreach Office, four of the five case workers are themselves ex-offenders who understand the clients and speak their language. Theirs is called the most realistic crime prevention program in the city. Their director says, on the basis of his 10 years work in the system, "70 percent of all jail inmates, if given adequate supervision, would not need to be incarcerated." And he suggests that we use more ex-offenders to work with prisoners.

It would help in Montana if the legislature would do some innovative planning, but don't count on it. Politicians make political hay out of being tough on crime; it's the best way to get reelected. They love to argue that there's no point

in spending more money on rehabilitation because nothing works. That simply isn't true.

There's a sure test for insanity. You take a patient into a room where the water is overflowing onto the floor from a faucet. If he turns off the water and starts to mop, then he's all right. But if he starts mopping and never turns off the water, you figure maybe there's something wrong with him. Well, I've heard dozens of impassioned speeches in the legislature crying, "Mop up crime, build bigger prisons, give longer prison terms, eliminate parole and furlough possibilities, and get these criminals off the streets." But when somebody brings a bill in that would start turning off the faucet, we don't have enough extra money for that kind of thing—just send them to Deer Lodge. What else is that fine new prison for?

We finally have one single halfway house starting in Missoula. We're about to have one good female facility in Billings and are beginning to develop deferred prosecution programs in several communities in Montana. Ken Mitchell here in Billings is working out a program with our courts to sentence people from our jail directly to a reevaluation counseling group. We did get a prerelease work study treatment furlough bill through in '75. It allows for individual contacts with daily sponsors, regid requirements, and a demanding self-improvement program. There are some recipients of that bill here today. We got the bill through in '75, but the legislature didn't provide one penny for the social services that are necessary to make it work. So, there have been only 30 people since '75 who have gone out on this program. There's not been one failure in that group. Nationwide, work release programs have been over 80 percent successful. Maximum benefit was achieved by those falling into the poorer risk categories. They succeeded at much higher than the expected rates.

Now, nobody thinks that all the people in our prisons should be turned out into community programs. Psychologists seem to agree that 10 to 20 percent of the people in our prisons are, for all practical purposes, unrehabitable This is the group for whom prisons are needed for long periods and probably always will be. George Beto, the past president of the American Correctional Association, says, "If we're honest with ourselves, we'll admit that our massive prison buildings and time-honored security measures are actually designed for a small percentage of our prisoners, 25 percent at the most." Only 1 in 418 criminals actually goes to jail for his crime. But it's the young, the poor, the nonwhite, the not-so-smart who get behind the bars, and these are not always the people who need to be there. They are the ones who need the most help, and in most cases they're not getting it.

And so we go on mopping. We go on pouring millions into prison buildings and almost nothing into mobilizing the free resources that are available in our communities. And the resources are there, volunteers are ready, and many have already been trained. People in dozens of communities in Montana want to be furlough sponsors, but they don't know how to go about it. There are several statewide civic groups that have studied corrections recently and could be mobilized. The Montana Association of Churches has formed a prison relations task force, whose primary goal is to provide a welcoming family in every local church for prisoners to come home to.

Montana is in a unique position to lead the way. If we took advantage of the resources in our local communities and trained and organized volunteers that are available, we could go along with human nature instead of placating it by removing its problems from its sight. And we'd be turning off the faucet instead of spending more and more on mops.

Richard Vandiver, Sociology Professor,

University of Montana, Missoula

New programs and new ideas for handling social problems should come out of the executive, the judicial, and the legislative branches of government, but they should act in various ways to check each other to make sure that the basic rights of individuals do not get infringed upon in the generation of those programs and in the carrying them out.

We're presently faced, it seems to me, with a situation in which we've got a governmental structure that is not working as a system of checks and balances on each other. One of the basic problems we have in trying to assure rights of people is the problem of accountability. And our government has grown so big and so bureaucratized that many of the people involved in it, at all levels, are not accountable for their actions.

It's not enough for the executive branch to be held accountable simply by an election every 4 years of the top administrator. It's not enough that the legislature is held accountable only through elections every 2 or 4 years or that the judiciary is held accountable every 6 years with an election.

Today I raise the question of whether we can count on legislative alternatives for providing basic guarantees of rights of offenders or anyone else. It seems to me that one of the basic problems when we're dealing with correctional agencies is the fact that they are, by nature, a coercive part of the criminal justice system. The whole criminal justice system, in so far as it deals with human beings, eventually makes a decision that somebody has offended and therefore needs to be coerced by the State. But, in my opinion, there should be the provision of general alternatives for people in the community, so that they would not have to nearly so frequently come into contact with the criminal justice system. One of the ways of dealing with this is to get rid of some of our old moralistic laws that deal, in essence, with the private behavior of people, allowing people to behave as they want to as long as they don't hurt other folk.

We see, in recent years, more and more people being coerced by our correctional systems, and our criminal system in general, who have not really been serious threats to the rights of others in the society. The legislature, it seems to me, needs to take a positive approach in getting rid of some of these laws that put more and more people under the coercive umbrella of the criminal justice system. One of the basic problems with correctional agencies is that they're basically bureaucratic agencies without control over their intake. If we begin to look for legislative alternatives for providing rights for offenders and look solely at the correctional agencies, we're looking in the wrong place.

That means that we've got to begin to expect the legislature to provide a check on the judiciary. And I don't mean in the sense of more mandatory sentences—I mean in providing alternatives and to limit the options of judges for sentencing more and more people to correctional facilities. One alternative would be to provide sentencing councils which can operate on the basis of professional judgment rather than under political pressure. Most judges' decisions are simply political decisions made in the interest of trying to placate the community, and, in many ways, that's based on a lot of emotional feeling at the time. A correctional council or sentencing councils could provide more professional judgments about what would be in the best interest of the individual.

Another option would be to sentence all offenders to the correctional authority to establish the type of treatment and/or incarceration for the individual; that is, allow that correctional authority to make the judgments about what kinds of sentences should be carried out for the individuals.

Basically, the State of Montana does have adequate laws guaranteeing civil rights of offenders. Offenders in Montana, under the new criminal sentencing procedure, retain all of their civil rights except those taken away by the judge at the time of sentencing and justified by the judge as necessary for protection of the community.

But how do you get people to uphold laws? We have to do that through providing some sort of policing procedure. One of the things we need in Montana, in my opinion, is a policing authority of some sort that will police correctional agencies. What I'm talking about is not a group of uniformed policemen, but a person such as a corrections advocate. This would provide a procedure for anyone in the system, and I'm referring not only to inmates but also to correctional officers, who have complaints, who have grievances of various kinds about violations of rights, and so forth. This procedure would set up an independent group under the correctional agencies, so that individuals' rights can be guaranteed to them and correctional programs can be held accountable for their violations of peoples' rights.

Another legislative option that needs to be developed in this State is one which has to do with the tremendous violations of rights of juveniles. Legislation should be enacted to control the informal intimidation of juveniles by juvenile probation officers. Most of the violation of the rights of juveniles does not take place in court or in institutions; it takes place in the offices of juvenile probation officers.

Legislation should be enacted to make certain that juvenile probation officers be held accountable for their decisions, their statements, the processing of juveniles. I would argue that juvenile probation officers, or that juvenile probation,

should be placed under the State executive branch, that is, the Division of Corrections, and that every juvenile brought by the police to the probation officer be given a complete and total statement of the available alternatives. Accountability for the rendering of services or restriction of the life situation of the juvenile should be imposed on the juvenile probation officers. Juvenile probation officers have to be responsible, it seems to me, to more than simply judges.

Another option that I would suggest is that we make use of the recommendation of the Montana Justice Project Correction Task Force principle that minimum use be made of institutionalization. We have to keep in mind the fact that the more we allow individuals to maintain their lives in the community and not behind closed walls, the more they're going to enjoy rights guaranteed to them by the State law and the State and the Constitution. Ultimately, I believe, the more we develop in the way of legislative alternatives to keep people out from under the control of the criminal justice system, the more we're going to guarantee those people their rights.

John Dicke, Melvin T. Axilbund, and Paul Spengler supported alternatives to incarceration, since imprisonment is not only costly but, in many instances, inappropriate. They felt that the practices of parole and disciplinary hearings belie the concept of rehabilitation and should be abolished. Axilbund and Spengler agreed that constitutional rights and standards that are appropriate to prison life should be upheld and promulgated by those involved in corrections and in the administration of justice. Polly Holmes reiterated the need for corrections systems to facilitate and expedite the rehabilitative process and early release of prisoners. She called for a humanistic approach to dealing with offenders, citing programs in communities outside Montana. Richard Vandiver questioned the value of legislation enacted to ensure the rights of offenders. He felt that a system of checks and balances should be put into operation to rectify deprivation of rights. He suggested that a corrections advocate position be instituted to facilitate inmates rights and to explain their responsibilities.

History of Corrections in Montana

Montana Senator Tom Towe traced the development of corrections in Montana and praised the present system under Warden Roger Crist and others.

Senator Tom Towe, Billings, Montana Legislature

To understand what has happened in Montana, I think it's important to go back to the history of corrections in Montana, prior to the mid-fifties. At that time, as one eminent person in the State—now a district judge—referred to and used the term, we used to have a bunch of "sheep herders" who were prison wardens. In my opinion, they clearly were not capable, were not trained, did not understand penology, and simply sat there and tried to make things go as smoothly as possible without any waves being created.

Well, it didn't work, because in 1956 we had a prison riot. That awakened the people of the State of Montana, and they were very concerned that something be done about the situation. As a result of that, a bill was introduced and passed in the Montana Legislature. The date was 1957 and the bill provided that the prison warden must be someone who is trained and experienced, not just trained or not just experienced, but both. That was really the beginning of the modern era of penology in Montana.

A wide search was made for a prison warden. The National Prison Association was asked for assistance and helped in that regard. I think over 100 applications were taken and Warden Powell was chosen, someone who clearly was trained and experienced in the field of penology. Warden Powell came into the Montana prison, took one look at it, and found out that the "con bosses" were running the prison. Prison officials and guards had no control of what was going on or who was assigned to what work detail. There wasn't even an educational program in the Montana State Prison. It was just about that time that the first chaplain started coming into the prison. That's how far behind we were.

Warden Powell immediately terminated the "con boss" system and there resulted the prison riots of 1958. Those were put down and the administrative staff took control of the prison and has had it ever since. A few years later, Warden Powell was fired, and Warden Ed Ellsworth was then made prison warden. Warden Ellsworth was a former deputy sheriff. He did not have the training or experience that was required under the statute, and therefore he was made acting warden. However, after a few years he was named full warden on the theory that he, by that time, had obtained the experience.

Some unfortunate situations developed during the Ellsworth period. We had the march from Rothy Hall one night when Deputy Warden Dwight, I think it was, was in charge. It was following an escape attempt at Rothy Hall; where the prisoners were marched into town without any clothes. Next came Warden James Estella. He had both the training and experience that the statute requires. I think he was one of the best wardens that we have ever had in Montana.

Roger Crist, the present warden, has followed Estelle's lead very well. That has made a tremendous difference. I was there in 1962. I went through the prison on a number of occasions at that time. I've been there recently, and the difference is striking. The emphasis on security is no longer there and that is significant. The emphasis is in a different direction. But the point is, where are we going and what is happening?

In 1962 I supported the effort to pass a bond issue to construct a new prison, and I thought it made sense at that time. But at the present time I have changed my mind, and I believe there are some very good reasons for that change. By 1973 the prison population had dropped—it was less than 300. It got down as low as 256 or 257 people in the prison. That was significant. The earthquake eliminated one of our cell blocks. We had to double up. The new dining room was built and they put bunk beds in the old dining room, and there

was a crowded situation at one time. But by 1973 that crowded situation didn't exist because the population had come down quite substantially. I was convinced at that time that the emphasis should not be on bricks and mortar.

I was afraid that if we built a new prison and the request was for $3.8 million, much of which was to come from Federal revenue sharing, that we would say that we got our problems in penology and corrections in this State all taken care of so we don't have to worry about anything anymore. I feared that all of the emphasis toward improving corrections in Montana, prison reform and all the other matters, would be forgotten. And that's why I was concerned and opposed the construction of the new prison.

I was not successful. The new prison was authorized in 1973. They came in for another request for a supplemental in 1974. That was authorized, and another one in '75, and I think we're up, by 1975, to approximately $5 million for the prison. In 1974, however, I said that if we're going to have $500,000 more money for this new prison, then I want an equal amount for community corrections, that we don't forget that other aspect of penology in the State of Montana.

I was unsuccessful, even having received quite a bit of support. But I was very pleased that the administration, the Department of Institutions, with the support of the Governor's office, came into the next session of the legislature with a request for an appropriation for enough money for three community facilities. In the 1975 session we obtained for the first time an appropriation for a community corrections facility. We now have such a facility in Fort Missoula.

But let us not forget that we still have that obligation to look beyond the bricks and mortar. I was very disappointed that in the 1977 session we came back into the legislature and learned of a request for another $3.8 million—interestingly, the same amount as the original prison appropriation—for a new building at the prison for maximum security or for stronger security.

So I'm still worried that the legislation is not going in the right direction. I'm worried that we're not putting the emphasis on the programs that we should. We've got to recognize that there are some people we're going to have to hold incarcerated, perhaps for the rest of their lives, because they're too dangerous to society. But then we've got to also recognize that the vast majority of the people who are sent to prison will some day go back out on the streets, and the question is, how much better prepared are they to contribute to our society? And I suggest to you that at the present time they are probably not very well prepared. Most of the people have not obtained any training or knowledge to cope with the serious problems in society that cause them the difficulty. To put them back out on the streets with a whole raft of new problems (such things as whether or not they should tell their fellow employee that they've been convicted of a felony or not) is a serious thing for someone to cope with. They need such things as halfway houses and psychiatric, family, economic, drug, alcohol, and vocational counseling.

We should make more use of our ex-cons, the people who have been through the system. They know the in's and out's; they know where people are likely to fall off; they know where they need a little more help and a little bit of push; and they know where to be firm and where not to be firm. They can be utilized very successfully as, for instance, in the Fort Des Moines program in Iowa.

We are very impressed with the Corrections Institute, and there are some things that I hope that the legislature will do. With people like Roger Crist and others who have worked very hard in the corrections system, we've come a long way from 1962 and from 1955, before we had really capable people handling our corrections in the State of Montana.

Senator Towe called for reevaluation of the emphasis placed on corrections in Montana. He stated that less legislative funding should be directed towards construction of penal institutions and more towards rehabilitation and community service programs administering to the needs of offenders and ex-offenders.

Women in Corrections

Judy Smith (Women's Resource Center in Missoula), Jo Jergenson (Department of Institutions in Polson), Tom Emerling (Half-Way House in Billings), and Ann German (Libby attorney) related their work with the female offender. Both Grace Schall (women offender evaluator) and Warden Roger Crist shared their views of problems faced by women encountering the corrections system.

Judy Smith, Women's Resource Center, Missoula

I work for the Women's Resource Center in Missoula, working on the Montana Women Offender Project since 1974. What we've been trying to do with the Montana Women Offender Project is to educate Montanans as to what is happening with women offenders in the State. One thing I'd really like to emphasize is that those of us that work on the Montana Women Offender Project view ourselves as advocates of women offenders. We ourselves may not have had the experience of going through the corrections system, but have talked to a number of women who have and have had wide contact with women who have been in the system.

When we start discussing the question of civil rights, I think it is very important to understand the historical context in this country of civil rights and corrections programs. It is only reasonable to assume that people who have power, who make the laws, who enforce the laws, who run the corrections systems, and who do probation and parole have male interests at heart because they are males. So, what we have in the criminal justice system in Montana, then, is a major concern for male offenders. It shouldn't surprise us that the concern for women offenders or for Native American offenders has never been as great, because women and Native Americans have not made the laws or enforced the laws.

Sex role stereotyping means that we judge people not as individuals but on the basis of their sex. We have believed that women can be characterized in whatever terms—emotional, passive, dependent on men, not interested in making their own way, not quite as intellectual or logical.

We've characterized men as the opposite—aggressive, independent, wanting to take care of themselves, wanting to take care of women. We have had two opposite sex roles in this society. We have not looked at people as individuals. Women offenders and Native Americans are a natural focus here today, because we are beginning to raise questions about civil rights. We believe the civil rights of women are denied in Montana and that women offenders are denied rights in Montana and nationwide.

The persons who operate the Montana criminal justice system may not have consciously decided to discriminate against women offenders, but, because of the historical situation where the *male* offender is the offender, that has been focued on as well as on the needs of the male offender. The correctional system has been set on those needs.

What I'd like to do is outline some general issues that I'm concerned about with women offenders in Montana. The first one is the question of equal treatment. It falls under a rhetorical caption of cruel and unusual punishment. We send female inmates outside the State. I'm aware that it's only 5 to 10 people we're talking about. I'm aware that as a matter of efficiency, if we're looking at that as the priority, it would be very difficult to provide these women with something within the State.

But if you look at the effect on the women of being sent either to York or Nevada, if you discussed the situation with them, you'll realize that those women feel they are being put through cruel and unusual punishment. They are totally cut off from their communities. They are not being provided with any kind of vocational or mental health programs where they've been sent that will prepare them for coming back into their community. In some cases they end up serving longer sentences because of the difference between parole situations in York and here in Montana. A lot of those women feel that they would benefit very much by staying in the State.

What are we going to do with the fact that perhaps we do have few women offenders? Does that mean that we then take away their right to have services within their own State? Does that mean that we have the right to send them several thousands of miles away, where they do not have the kinds of contacts or programming that they need to be able to come back into Montana? Should they be cut off from their families? Should this small group of people be denied their right to have programs within their own communities and access to their families?

Equal programming for me would mean that there would be a way for women to stay in the State and to have the programming that men have in the State. That raises another question. What kind of programming do women and men have, when you compare them, in Montana? What men offenders have is a wider variety of programming and more options than women offenders have. When women offenders are sent to York and Nevada, they are sent to a place that provides them with very low status and low skill vocational training, if they get any training at all. For instance, I just talked to a woman who wanted to be an auto mechanic and was sent to Nevada, where there is absolutely no chance for her to become an auto mechanic. Now, had she had adequate programming here, equal to what male offenders in Montana have, she would have a chance to look at and receive training in auto mechanics, carpentry, or what we consider more high skill, high status jobs in the society.

There is also the question of the "chivalry factor," which I think we all should be very aware of, reflecting a very traditional attitude toward women. What we hear over and over again from people in corrections is that we should be glad that women are treated the way they are because they're basically "let off." They are basically not assumed to be responsible for the crimes they have committed. If they're apprehended with a man, the man is assumed to be responsible and the women is an accomplice. That tells you something about our attitude toward women. We think a woman will do basically what a man tells her to do and probably not much else in those situations. I think it is very important to look at this and see what equal treatment would be if two men are arrested for the same crime. They would be treated equally. We've got to ask ourselves some questions about what chivalry gains us in the long run.

It may mean that we get out on the street a little bit earlier, in some cases, but it also means, then, that the system is looking at us as very unique individuals. They let us off but we pay a price. One of the prices we pay as women is, if you look at national and Montana statistics, once women are convicted they tend to serve longer terms. Once you actually do something that the system considers bad enough to put you through the system for it, you actually serve longer for the same kinds of things than men do.

Furthermore, the judges do not treat a woman recidivist the way they treat a male recidivist. She's given a harder standard of behavior. In fact, male judges that I've talked to and whom other people have talked to have, in fact, said that they don't want to see a woman for the second or third time—if you come back, it signals to them that you are not living up to what we wanted you to do as a woman in our society, and therefore you must be punished more harshly than a male recidivist. A woman offender doesn't fit our traditional stereotype. A woman offender is not doing what she's supposed to be doing. She pays an extra price, then, when she goes through the criminal justice system because her behavior is very nontraditional in a lot of cases. Therefore, she's judged for that as well as whatever offense she did. What does the chivalry factor do for women? And should we really be advocating that women be treated specially? If we advocate special treatment, that puts women back on the pedestal, and the pedestal gets women out of the way of actual everyday life. The chivalry factor and paternalism work together hand in hand.

Another question I have is how many women work in these systems that deal with offenders? If you talk to women offenders, they'll tell you it's important, that they want to deal with women, that they want to have women who work as law enforcement officers, who work as jailers, who work in the various stages of the criminal justice system. We need to be aware that women have a unique situation and other women respond to that and understand that fairly quickly.

I would advocate that we have two cultures in our society, male and female. We have really different expectations, and all of us need to be

trained to know what these different cultures are saying to each other. I would advocate that women provide training for men and men provide training for women. You probably know that the Missoula jail now is the facility for women in which to be evaluated. Women who are in such jails have some real problems having all male jailers. Those men are upset that women do have certain kinds of bodily functions they're not used to, want a certain kind of privacy, and do things differently. A lot of the male jailers are really uninterested in being around women, which tells us something interesting again about our attitude toward women.

In summary, I don't feel women have equal treatment; I feel they should be able to stay in the State, I feel they should have access to the same kinds of high status, higher paid jobs, training that men do. I think that they should be treated equally in sentencing, and I think that we should really look closely at the idea that men have men taking care of them in the criminal justice system but the opposite isn't true. If you think about it, no man has to really worry that he won't have contact with other men. But women don't have that kind of situation, and a lot of women offenders that I have dealt with really are interested in having more women dealing with them throughout the correctional system.

Jo Jergenson, Department of Institutions, Polson

In the past when a woman was faced with appearing in court and sentenced to a period of time in the Montana prison system, she was at first detained in Deer Lodge, Montana, in a four-cell unit which was in the basement of the board of pardons building there. She was kept there until some decision was made by one person as to whether she would go to one of two alternatives—Warm Springs State Hospital or York, Nebraska, the State Reformatory for Women.

Women who were sent to York were faced with obviously very great distance problems. Being placed that far away from home, they could not communicate effectively with their family, their friends, and their children. They could not prepare adequate parole plans, which were required by the parole board before they could return to Montana. They had to have, in writing, a plan which was to include a place of residence and adequate employment or other means of financial stability, and/or school. But in Nebraska, unless they had a personal contact in Montana who could lay that groundwork for them, there was no one else provided in the State to do so. Consequently, many women came back with parole plans that weren't adequate and which consequently resulted in their not being able to successfully integrate into the community.

As of 1975 women are no longer sent to Warm Springs. However, before then they were placed in that institution, which had at one time also served as a mental institution. They did not have any rehabilitative or vocational programs to help them reintegrate eventually into society. Coupled with that, they were faced with the stigma of being placed in a mental institution, although they were not there for any kind of mental disorder. Now, women will be sent to Carson City, Nevada, and there is a facility in Montana, as well.

Tom Emerling, Half-Way House, Billings

We have started a new halfway house in Billings for women offenders. No longer will women be sent out-of-State; they will now be sent to Nevada only if they've committed a violent crime. Last year in Montana 10 women were convicted of a crime, 8 of them had children and 6 were the sole support of those children. With those factors in mind, it is important that we have some type of program that will help them when they are released. Because of this, the woman's halfway house was started in Billings. I'm happy to report that everything has been successful, so far, in terms of community support, and the support from the government officials in Billings has been overwhelming.

All the women at the home will be working or attending a full-time vocational educational program. I've been asked two or three times, will there be traditional or nontraditional women's jobs? Frankly, I'm more interested in seeing them take a job that meets their values, and when they leave our institution, they will continue on in that work. This may be traditional or nontraditional, as the case may be.

We have planned several programs using community agencies for drug and alcohol counseling. We're planning to have a woman or a nurse or a woman specialist come in to talk about woman's

health, and we are also are going to run our own interpersonal skills groups with a lot of the counseling and program treatment left to the community to accomplish. The women will not go to prison to begin with; they will be sent from the courts, as the judge and the presentence investigator see fit.

Ann German, Attorney, Libby, Montana

I would like to outline for you the case history of a young woman whom I have worked with to give you an idea of the problem. A young woman was initially brought into the system by her mother. Her mother was suffering from a mental health problem and couldn't handle the girl and so brought her to the attention of the probation officer, who put her on probation for a theft. The theft was of a check that was in her mother's purse, which she gave to her brother who then cashed it and kept the money. I think it was around $25 or $50—hardly an offense in which there was heavy duty impact on the community. This was an interpersonal matter that under other circumstances would have probably been dealt with informally within the family. Once on probation, she continued to act out against her mother, ran away, refused to go to school, this sort of thing. She was 13 years old and so her probation was revoked, and the court was asked to commit her to the Department of Institutions as a juvenile delinquent. This would have meant that she could have been committed until the age of 21, in her case an 8-year commitment.

I was appointed to represent her at that time. I was able to convince the judge that that wasn't the proper result, and so she was adjudicated a "youth in need of supervision," which is the other label that we use. This meant that she could only be committed for 6 months. She was sent to Great Falls, where she was a resident of the youth evaluation program. After several months there, she was placed in what is called an "attention home" in Helena. She spent some time there before running away from that home. She also ran away from the program in Great Falls and was brought back. After the second run, she was placed in a group home in Helena and once again ran away. She was picked up in Great Falls and returned to Libby for another adjudication. The judge was again asked to have her committed to the department for the 8 years. I again was able to convince the judge that this wasn't appropriate for her, and we had what was called a 45-day evaluation.

Now, at this point, I said, "Your Honor, this young woman is not a delinquent, she's an orphan." Her mother and father had left the State. She had no place to go had she been returned to her family. I requested that we get a 45-day evaluation for her with the sole purpose, I admit, of finding some alternative for her. The girl turned to me and said, "I already had an evaluation." I said "Shhh! Be quiet. Let's see if we can figure something out here."

She spent 45 days in the girls' home in Helena. The 45-day recommendation was that she be committed to the department, primarily because there was no alternative available for her. The probation officer and I got together and worked out a foster home placement. The final recommendation from Helena was that she be placed in foster home placement. She's been there for about a week now and I'm not sure exactly what's going to happen.

The purpose of telling you this case history is so that there is no mistake made here that I am accusing the juvenile system of not having methods in which to solve problems. I'm suggesting that in this particular case history, it seems that from the very beginning, there was a lack of recognition of what the real problem was. I think this happens quite often with young women as opposed to young men.

Grace Schall, Women Offender Evaluator, Missoula

I've been evaluating adult female offenders in the Missoula jail since July 1977. I see approximately one offender per month. I have been told that the Missoula jail is probably one of the better facilities for women. My reaction to that is I would really wonder what the other facilities are like. I've seen a lot of situations that were very poor happening in the Missoula jail. I have seen women discriminated against because they are women. I have seen women asked to have phone calls made for them or to see a specific person, and they were told that they were not able to do that because there were already men who had been asked to do that before. The men continued to be allowed to do those kinds of things, to make phone calls, to see specific people, but the women were not,

because they did not have a specific area to house them in, for them to make the phone calls, or to see the people. It became a very confusing situation and I have seen that go on and on. Women have not been able to get things like underclothes, just simple things like that.

I have seen women who have become upset with being in the jail system, because they had been away from their children. Because they have been dealt with differently than men, they have reacted so violently that they've ended up in the mental hospital. I find it to be a very painful experience for me to deal with those women. I find myself feeling very, very helpless. I feel that I make evaluations, but I don't know if the suggestions happen. I feel that they don't. I feel that a lot of those women are very young kids. They may be over 21, but they're still kids. They need a foster home. They need parental guidance. They don't get that in their own home.

They have had family situations which were extremely devastating to them, and I think the same thing happens to men. But I find with women, especially, that they have had a lot of sexual experience with fathers and stepfathers, which has caused them much confusion, much sexual identity crises. I have seen them have extreme problems with their mothers and reject female identity because of it. And I feel that those things are not dealt with well in the jail system. I feel that those kinds of considerations get forgotten.

The family's point of view needs to be brought into the corrections system much more than it is.

Roger Crist, Warden, Montana State Prison

In the prison, we are very much aware of the Federal requirements for affirmative action for females, and it has caused us, very frankly, some problems with staff resistance towards the hiring of females in corrections and inmate resistance towards the hiring of females in corrections. Finally, I said, "I don't care what the tradition has been in the situation, that you don't have females around. We're going to hire LPN's [licensed practiced nurses] and if they're females that's what we're going to get." We now have 10 LPN's and 1 RN, and the majority of them are female.

Other areas where we've hired females are cooks and chefs. The majority of our cooks and chefs, I believe, are females in the institution, which for correctional institutions is a nontraditional job. We have female case workers. We have a female vocational rehabilitation person. One of our very competent staff in the institution is our records supervisor, who is female.

I've got a problem going right now that is before both the State organization that deals with discrimination with regard to women and the Federal organization. This has to do with a librarian. She came out in the top three—I get the top three names after the screening panel has evaluated these people. Were I to have selected her, I believe I would have been invading the privacy of my male inmates. Believe it or not, males have some functions that are unique to males. I could hardly send her into the maximum security building where inmates are showering, are using the toilet facilities, or into a housing unit where they've got their pants off. Hiring her would invade the privacy of the inmates, in my opinion. It would also have reduced the level of service that the inmates could have gotten from the library. So, in this particular issue, it's going to be a question of women's rights versus the inmates' rights to privacy.

Judy Smith, Jo Jorgenson, Tom Emerling, Ann German, and Grace Schall were unanimous in the view that females face disparate treatment as offenders. Men have a wider variety of options in prison programming pertaining to vocational training and rehabilitation. In addition, women convicted of violent crimes in Montana are sent out-of-State for incarceration, while men convicted of the same crimes are not. Smith pointed out that female inmates are cut off from their families and denied State rehabilitation programs. Because of the differences in parole regulations among States, Smith observed that women offenders often serve longer sentences for crimes than do their male counterparts in Montana. She and Schall agreed that traditional views regarding the role of females in American society place disproportionate hardship upon women encountering the criminal justice system, since females are not expected to exhibit antisocial behavior. Roger Crist discussed the difficulties women encounter in working in corrections.

The Juvenile Offender

Jeannette Ganousis with the National Juvenile Law Center in St. Louis, Missouri, presented an overview of the developments of juvenile justice in America. John Dicke (American Civil Liberties Union) raised issues regarding juvenile rights. Mike Meloy (Montana Crime Control Commission) discussed Montana's juvenile corrections institutions, while Jean Ellison, a Billings attorney, related her efforts in juvenile justice. Jerome Cate, a Missoula attorney, discussed the problems faced by Indian juvenile offenders, Brad Green, Don Robel, Don Holladay, and Melvin Mohler, directors of Montana's juvenile corrections systems, described their programs. Steve Nelson (Montana Crime Control Board) pointed out difficulties with Montana's juvenile justice acts. Larry Ellson of the law school at the University of Montana surveyed the school's efforts in affirmative action and elements of Montana's juvenile justice laws.

Jeannette Ganousis, National Juvenile Law Center, St. Louis, Missouri,

Until the early 19th century, children were tried, convicted, and sentenced in the same manner as adults. Consequently, there were no children's institutions for criminals. They were sent to adult jails where they were commingled with adult prisoners. In order to avoid sending a child to jail, juries often found the child not guilty and therefore set him free rather than sentencing him to a jail. Failing to convict a guilty child was not a satisfactory solution to the problem, however. The early solution to this dilemma was to construct institutions solely for juveniles.

Even though these early reformers decried the practice of incarcerating youngsters, in practice the institutions they created became jails. Underlying the efforts of the reformers was the philosophical assumption that certain children could be saved from becoming adult criminals if the initial deviant activity were curbed. By removing the child from the community and home environment, reformers felt the child could be salvaged and there was a good chance of rehabilitation. Thus, the juvenile system was begun. At the end of the 19th century, Illinois passed the first juvenile code, which formalized the reform movement. The orthodox interpretation of this historical movement, culminating in the juvenile court, is a tale of juvenile concern.

The State in this process assumes the role of *parens patriae*. That is, it acts as a kindly parent to protect young people and to teach them to lead productive lives. In exchange for this benevolence and protection, children gave up the procedural protections afforded adults in criminal prosecutions. These procedural rights were felt to be not only unnecessary, but were also deemed inappropriate in the juvenile court. Because the court was acting to protect and for the child's own good, the formal trappings of a criminal trial were not required. Thus, for more than half a century the juvenile courts largely escaped close appellate scrutiny.

In the last decade, however, as a result of decisions by the United States Supreme Court, the juvenile courts have changed drastically. Due process requirements are no longer satisfied by simple proceedings devoid of all formality. In a series of recent cases, the court has held that juveniles are entitled to a broad range of procedural protections previously denied them. These rights include the right to notice of the charges, representation by counsel, privilege against self-incrimination, the right to confront and cross-examine witnesses, and access to social records and reports. In addition, the double jeopardy clause of the Constitution is applicable in juvenile proceedings.

In 1971 the momentum toward broadening due process protections was temporarily stalled when the court held that a child does not have a constitutional right to a trial by jury in a delinquency proceeding. The court based its conclusion on a number of grounds, including its previous indication by dictum that a jury is not a necessary part of every criminal process that is fair and equitable. With the exception of that issue, the court, in the

last 10 years, has consistently applied to juvenile proceedings the same constitutional guarantees as are afforded to adults in criminal trials.

The development of more formal proceedings is only part of the evolution of the juvenile justice system. From the beginning the concepts of treatment and rehabilitation have been crucial elements. Unlike the criminal system, deterrents and punishment have never been the justification for the State's ability to place limits on a child's right to liberty. In fact, the treatment philosophy is often expressed in a general purpose clause of most juvenile codes; thus, the State's ability to provide suitable treatment designed to cure or rehabilitate a young person is an integral part of the juvenile system.

In the 1940s an increasing interest centered on the application of psychoanalytic treatment for delinquent youth. This development reenforced an important corollary to the doctrine of *parens patriae*. Each child appearing before the courts was to receive individualized attention. In the 1950s, work with groups of delinquents became fashionable. This approach reflected the idea that lower-class boys were creating a delinquent subculture because they could not meet the standards of middle-class models. Concurrently, through the fifties and sixties, the old individual treatment mode for dealing with young persons began to lose support and group models began to emerge. The most notable of these, the "guided group interaction approach," drew on subcultural theories and principles of group psychotherapy. Variations of this approach continue to predominate in delinquency control programs, particularly in institutional settings.

More recently, a significant shift in focus is reflected in the movement toward community-based services replacing institutional care. The assumption that something is wrong with the individual offender has given way to the view that individuals find themselves in trouble with the law because of experiences at home, at school, and in the neighborhood. Focus of much current effort is to make jobs, counseling, recreation, and experimental schools available to young people to prevent delinquency through increased development opportunities. Many communities now operate at least token community-based programs. Some State youth service agencies, for example, Massachusetts and Florida, have already closed many of their large institutions in favor of community-based services.

Recently, numerous attempts have been made to change the mode of handling and treating juveniles. Traditional juvenile institutions have come under vigorous attack. Most academics in the field of juvenile corrections and many institutional administrators believe that juveniles housed in a traditional custodial institution develop expertise in crime and experience great difficulty in developing positive community contacts when they are released.

Reform in most States, however, is devoted largely to efforts to humanize conditions in juvenile institutions and to develop more sophisticated treatments and methods in such settings. In 1974 the Juvenile Justice Delinquency Prevention Act was passed by the U.S. Congress. The act provides Federal money to States to develop alternatives, if they agree to cease placing juvenile status offenders, children who are incorrigible, truant, or runaway, in detention or correctional facilities. The underlying theory is that the placement of children in institutional settings is frequently harmful and rarely beneficial. Since the status offender presents no danger to society, confinement in an institution should be barred and more helpful measures should be employed. Currently in many rural areas where there is no alternative to jail, the pretrial placement of juveniles is available. Assuming most of the children presently jailed will require some other kind of pretrial placement, the Federal monies available will cover only a small percentage of the cost in developing new facilities.

In addition to efforts to find alternatives to the institutionalization of juveniles, there has been an effort to improve conditions within State-run facilities. As stated earlier, the justification for the State's exercise of authority over a child is the promise that treatment will be provided. All too often, however, the promise is unfulfilled.

In order to secure the necessary treatment for incarcerated juveniles, the issues have been litigated in a number of other States. Generally, institutionalization consists of two broad areas of concern—the conditions of confinement and treatment or rehabilitation programs. The conditions issues closely resemble prison cases, and the decisions often parrot the language of those cases. Is-

sues such as solitary confinement without due process, discipline, mail censorship, restrictions on visits by friends and attorneys, and deprivation of personal property arise with regularity. The treatment or rehabilitation question is an additional element in juvenile institutional litigation, not found in prison cases but very similar to mental health cases. These cases seek to have treatment provided for juveniles who are held in institutions. The viability of the right to treatment theory, however, is currently questioned.

In a recent decision the fifth circuit has cast doubt on the treatment concept as applied in the juvenile field. The court did not state that the conditions of confinement within institutions could not be challenged, based on the cruel and unusual punishment theory; however, it did say that the right to treatment theory has never been established in the juvenile system and has only marginally been established in the mental health field. Basing a case on the cruel and unusual punishment theory would, however, provide only minimal levels of care and does not necessarily address the lack of services. If followed, this decision could have far-reaching consequences. At the very least, however, conditions within institutions remain subject to scrutiny. Most juvenile codes contain language to the effect that the purpose of confining juveniles is to rehabilitate, not to punish.

Children are to be removed from their homes only when their welfare or the protection of society mandates such action. After a child is removed from the home, most codes require that a child be treated in a manner equivalent to the care a good parent would provide. Moreover, adjudication does not have the effect of a criminal conviction nor is an adjudicated child a criminal. Accordingly, deplorable conditions, lack of treatment programs, and unnecessarily restrictive rules in juvenile institutions are subject to attack.

The same rights to which incarcerated adults are entitled are available to juveniles. In order to provide the rehabilitation which is the justification for the juvenile system, children in institutions are entitled to more than merely warehousing. Institutions must provide programs tailored to the needs of the child and designed to alleviate or eliminate the problems that led to the child's incarceration.

John Dicke, American Civil Liberties Union, Juvenile Rights Project

The American Civil Liberties Union's juvenile rights project does not wish to concern itself a great deal with conditions of confinement but chooses to leave that with the prison project, because it really considers juvenile institutions to be prisons—kids are locked up; they have many of the same conditions that prisoners have. These institutions are many times subject to the same attacks under civil rights suits and cruel and unusual punishment concepts.

We were involved approximately a year and a half ago with one institution in Montana with respect to the conditions there. The institution is called Pine Hills. The file that developed and their cases showed that the place was in need of a comprehensive suit. Apparently a lot of bad things were going on with respect to beatings, chaining people to the beds, and solitary confinement. The suit was never begun. Since then, however, a couple of agencies here in Montana have initiated a suit involving the personnel at Pine Hills, which is currently pending.

The juvenile rights project is primarily interested in the constitutionality of status offenses. States have statutes or classifications called CHINS or YINS, Children In Need Of Supervision or Youth In Need Of Supervision. Children are many times incarcerated, put on probation, for the noncommission of a crime, for merely acting out, for cutting school. Many times girls are locked up for being promiscuous, when the boys go out and screw their heads off in society and get away with it. It's clearly a double standard and there's no adequate definition, really, of what a CHINS is.

Many times status offenders are locked up. They are treated just like any other adult prisoner. They are not getting proper or adequate treatment, although the moniker under which they enter the institution implies that they need treatment. This happens frequently. Can the State, under the theory that it is providing rehabilitation to kids who have been adjudicated delinquent for the commission of a felony, incarcerate kids longer than adults who are incarcerated for the commission of the same felony?

There's a Federal juvenile institution at Englewood, Colorado, that currently is incarcerating kids for the commission of felonies. They are held

in the institution longer than adults could be held for the commission and the conviction of the same felony. This is a real problem and is done under the guise of rehabilitation.

Do kids have the right to bail? They have the right to the same pretrial release standards that adults have. Kids frequently are arrested and locked up for long periods of time before they ever come to trial. They are not given the right to bail. They are not given the right to have their history looked into with respect to contacts in the community, to see or to indicate to people whether or not they're going to split after they're busted. Certainly adults are given these rights. When an adult is arrested, theoretically, he's allowed pretrial release. People look into his family background and his jobs to find out if he's going to leave. This is an equality protection problem. Should the kid have the same rights as adults?

The real thrust of our project is more on the foster care area. Foster care in many States is a total mess. Recognizing the difficulties that social service people have with respect to dealing with foster care issues—they are short of staff and money, some are short of education, and they have gigantic caseloads. Specifically, a classic foster care situation is one by which the State, through its social service agency, through a welfare worker, intercedes into the family. The State or the welfare agency or the court, in its infinite wisdom, decides to remove a child from the home. In many cases this is unwarranted, but there are often enough situations in which there is gross physical, sexual, or emotional abuse that can be manifested and proved.

There are also a significant number of other cases in which social services intervenes into family integrity, removing kids because they are not educated in the same manner as other kids or because they're Indian. There are a great many Indian kids who, because they are brought up different from the larger white community, are in fact removed from their families, their extended families and their tribe, and put into social services agencies or put up for adoption. The rights of parents are terminated.

Our project is attacking these types of situations. I'm involved in a couple of cases right now in Kansas where the abuses are pretty gross. One of the cases involves a lady who came to the United States and was here for 5 days. She was from Mexico. After she was in Kansas for 5 days, social service intervened and took her kid.

We advocate the right to the least restrictive alternatives to removal or termination. That means simply that the State and social services and the court have to and are constitutionally bound to do everything in their power to keep the child in the home. They're bound to provide in-home services, in-home tutoring, in-home or outpatient emotional support, and psychiatric care. But they have to do everything they can before they terminate parents' rights to their kids.

Another situation requiring attention is the situation in which some social service agencies have the practice of making special education available to children whose parents are willing to relinquish them temporarily to a social service agency. The theory behind this is that if they get the kid into a foster home, then they'll get some kind of State or Federal funding, a reimbursement.

Frequently, social service agencies move children from foster home to foster home, almost summarily, without providing the children any kind of due process rights whatsoever, without providing them a right to an attorney, some kind of hearing, or finding out really what the kid wants. Frequently, it's just expeditious for them to move them around from place to place without ever really looking into the best interests of the kids. Concomitant with this particular issue is the right of kids to be adopted instead of put in foster homes after they have been separated from their parents or parental rights have been terminated. Six or 8 years later, or a year later, or however long later, something happens in the foster home and the kid is moved and it starts this vicious cycle of losses for the child, and he starts feeling he doesn't belong anywhere. He begins acting out, and there is a whole plethora of emotional responses to this type of situation.

Another issue that is particularly relevant right now, in *Bartley v. Clemmens*, is the right of kids to a hearing or some kind of due process guarantees before their parents place them in a mental institution or some kind of a State institution without the consent of the kids. This is a situation in which parents decide that the kid is a pain at home or that the kid is mentally ill. They just take it upon themselves to put the kid away, to put him somewhere.

The right of foster parents who had kids in their homes for significant periods of time to have some type of procedural due process guarantees before a social service agency, court, or whatever body removes the children from the home is another issue we're looking at.

Mike Meloy, Montana Crime Control Commission, Helena

Last summer there was an article in the paper which indicated that a legislator from Missoula had gone to our legislative service agency and asked that a study be done of Pine Hill School, our juvenile institution for boys. The reason she was asking for a study was because she had a lawyer in her district who had reported to her that he had a client who allegedly was beaten, allegedly shackled to beds, allegedly on Thorazine so that half the time he didn't know what he was doing. She took those allegations to the council. The council accepted them with, I think, some temperance, and decided that the legislative council ought not to be getting into those kinds of investigations. The Governor's office undertook a study, with some fairly competent people, of what was going on at Pine Hills, and in November last year, right before the legislative session, the office came up with a study which essentially said that they did not think there was any substantial proof or evidence that corporal kind of treatment has been applied to the boys there.

There were a number of things that were pointed out in the report that needed to be addressed—administrative problems, the question of overcrowding, the fact that the manner in which different kinds of youths were handled at Pine Hills was not the best way of doing things. I took it upon myself to introduce a bill which would have gone not very far in alleviating some of the problems. It would have removed from Pine Hills boys who were on 45-day evaluations. There were no facilities at Pine Hills to separate the Youths In Need of Supervision who were there for evaluation, the status offenders, and the children who were there because they were adjudicated delinquent and had actually committed a crime for which they would be held accountable as an adult. There was no segregation of those groups of people. So, it made some sense not to do evaluations at the Pine Hills facility. The bill essentially said no evaluations shall be done at either Pine Hills or Mt. View.

The bill died because of a money problem. Since that time Don Robel has started evaluations for juvenile boys at Mt. View. The facility is much better than Pine Hills for evaluations, even if we have to do it at an institution, because we've got some qualified people who could do the evaluations. I think a great step was taken when Mt. View went coeducational for evaluations.

A lawsuit has been brought by the Legal Services of Montana, and the Federal district court in Billings is at the point of deciding what the consent decree should contain. Among the contents are that certain people who are involved in a staff capacity shall be removed from Pine Hill and the John Howard Association of Chicago should come in and do an independent evaluation. The Department of Institutions had said that we've got a master plan study and we can do that when we do the master plan study. If we have a good, objective person, I think we might be able to get the kind of thing that the interim order or the consent order might contain.

The Department of Institutions is resisting the request of the plaintiffs that an ombudsman be hired at Pine Hills, essentially, as I understand it, on the grounds that it wasn't prayed for in the original complaint. One interesting thing here that was asked for in the proposed order by the plaintiffs was that youths in need of supervision shall not be placed at the Pine Hills School. The Department of Institutions agrees with that. Among the things that may be changed in the next session will be that no status offenders be referred to any youth State correctional facility for evaluation. One of the other recommendations is that the 45-day evaluation not be used for treatment. It is not to be used for a punishment. District judges in Montana tend to sent juveniles on a 45-day evaluation to kind of let them know what institutionalization is about, hoping that it will scare them.

Another recommendation says probation officers should not testify at the adjudicatory hearing. The reason for that is that district court judges tend to follow what their probation officers tell them, and that's not surprising because the probation officer works for the district court. But I don't think that's a good idea. Although I don't think the district

judges would agree with me, I would like to see a piece of legislation which goes further than that and which takes juvenile probation officers out of the judicial branch and places them in the executive branch. One of the other recommendations is that school-related status offenses not be the responsibility of the juvenile justice system but rather be the responsibility of the school system. Status offenses are concerned with truancy, with habitually running away, with incorrigibility, with sexual promiscuity—those things which, really, for youths ought not to be crimes and ought not to be treated by the courts as such.

Jean Ellison, Attorney, Billings

You will notice there are no juveniles here today to talk about juvenile corrections. I think this is the major problem that we have with juvenile justice. They are people who traditionally have not spoken for themselves. We believe that we should speak for them, we do speak for them, and, if you'll notice, when they do speak to us, mostly we don't listen.

You may have a juvenile who is trying every way that he can to tell you that his parents are driving him crazy, and we keep telling him, really, that things aren't so bad. He'd better come in next week and talk to us and he'll probably get along better at home this week.

This is as much a problem in Montana as anywhere else. We don't have all the attendant problems that other jurisdictions have; we don't have as much urbanization; we don't have as much juvenile crime, but it's increasing. The reason that I'm so vitally interested in juvenile justice is because I believe it is the biggest crisis we face in this country today. And if we don't solve the problem, I cannot envision what we will be in 20 or 30 years from now. The problem has to be solved, and we are the people that are going to solve it or we're going to let it go.

I want to say also that as an attorney, I'm the one who files the petitions against these youths, but I want to assure you that when I'm faced with a juvenile problem I do my very best to solve that problem. I also have found that the superintendents at the various institutions, the people in the Department of Institutions, the judges, the police, the sheriffs, the probation officers, the defense attorneys, all pretty much, by and large, do their very best. This is a *system* problem, and we're going to have to attack it at that level. We're going to have to change the system in some way.

I think I can best illustrate Montana's problems by giving you a case history. This has recently occurred in my jurisdiction, and I thought perhaps if we talked about it a little bit, we could all be thinking together and decide just where the system went wrong.

A 12-year-old boy has been repeatedly in trouble, for 4 years that I know of from the file. He is an Indian boy and was an illegitimate child. His mother then married and there were three children of that marriage. He has been resented by his father and the other siblings all his life. His mother recognizes this and tries to make up for it. It has become an impossible situation and the boy has extreme emotional problems. He has been put in foster care and has been sent to a specialized boys' ranch near Missoula for emotional problems. He has been placed at Yellowstone Boys' Ranch, and he had been put experimentally at Warm Springs State Hospital in the juvenile unit. He has run from all of them.

This past summer his mother returned to their home because she was having some problems in her family. The tribal court attempted a placement since they had a facility they were going to try. He ran away before he could be placed there. He has been tried in several special education units throughout the State. Last spring I sat in on a hearing where there was a great deal of testimony. At the conclusion of that hearing, the judge ordered that this boy be evaluated at a mental health center and a recommendation be sent back to the court about what to do about this boy. I just sat in on the hearing last month where he was found delinquent. He had committed 21 offenses in that time, ranging from criminal mischief to theft to trying to sell firearms. I asked immediately for the evaluation that had been ordered in March and it had never been made.

The boy was declared delinquent, and he was ordered to the Department of Institutions. It was feared that he would run away (this was the day before Thanksgiving), and so he was put in jail that night so that he could be transported the day after Thanksgiving. I know nothing about what has occurred since. I do not know what psychiatric services are available at Pine Hills at this point in time. The last time I investigated there were none.

Now, I haven't yet figured out what my position should have been in that case, but I'm going to, and when I do, then I'm going to start trying to solve the problem. I repeat—unless we solve the problem, someone else is going to solve it for us. There's no reason why all those people that I mentioned who are interested in juvenile justice cannot cooperate to solve the juvenile justice problem in Montana. We cannot work with the defense attorneys association, or the county attorneys association, or the judges association. The people who are interested in juvenile affairs must make a cooperative effort, must go to the legislature with a plan, and must keep trying until we get it through.

Jerome Cate, Attorney, Missoula

When we consider the juvenile and his problems, I don't think that we can forget the parents. About 84 percent of the juveniles that show up in our court here in Billings, Montana, come from broken homes. Something like 86 percent of the juveniles that are arrested are either personally involved in alcohol or there is a history of alcoholism in their family. There's also the aspect of religious commitment. You don't find too many juveniles in juvenile court who have a religious commitment. And those of you who work with juveniles might give that idea, the idea of religious commitment in youths, some serious consideration. I think a religious search is probably worth about 10 trips to the jail.

The Indian juvenile presents a rather particular and peculiar problem. He is set apart from the white juvenile in the State of Montana and elsewhere. An Indian juvenile is, first of all, potentially subject to at least three different jurisdictions: (1) the Federal courts, if he commits a crime under the Major Crimes Act; (2) the tribal courts, if he commits a crime on his reservation; or (3) the State courts, if he commits a crime off his reservation.

The white child, of course, is primarily governed by only one jurisdiction. The Indian youth who commits a felony, one of the 14 major crimes under the Major Crimes Act, is treated in the Federal court system the same as an adult. He is brought into court; he is charged with either an indictment from the grand jury or by information with a felony of murder, manslaughter, rape, whatever; and he is processed through the Federal court system as an adult is processed.

I had occasion a number of years ago to be appointed by the Federal district judge to represent two Indian juveniles from Fort Peck. One was seven and one was eight. They were charged with burglary. They had broken into the local school because they were hungry and had stolen some rolls from the refrigerator. They had done it repeatedly and this is where they ended up—in Federal court. I refused to plead either of those boys because I didn't feel that 6-, 7-, or 8-year-old boys understood or could possibly comprehend what their rights were. Those are the last two Indian boys that I ever represented, because I was never reappointed.

The solution that the court found was to discharge me as their counsel and appoint someone else who would plead them. However, my obstinance and intervention in that case ended up with the boys receiving some extraordinary type of treatment and care and guidance throughout their lives. They're now 13 or 14 years old and doing pretty well for themselves.

The whole point of that is that the Indian juvenile is treated quite drastically and very differently. Furthermore, in the Federal system there is no program. What usually happens with an Indian youth who is charged under the Major Crimes Act is that he will be sent to Lompoc, California, or some other Federal institution facilities in Montana for Indian juveniles. There is a total lack of program for Indian juveniles in the Federal system.

When the Indian juvenile commits a crime on the reservation, he then becomes subject to the tribal courts, except on the Flathead Reservation. That reservation has ceded its jurisdiction to the State of Montana. Indian youths on the Flathead Reservation are subject to Montana law and are processed through the Montana courts. But that isn't true with the six other reservations in Montana. The Indian juvenile there is subject to treatment by the tribal court. At least five of the six tribes do have what they call a juvenile code; however, they vary in degree from not amounting to anything (simply a direction that the juvenile be turned over to the juvenile officer) to a fairly elaborate procedure. The Indian youth who is charged in the tribal courts doesn't have available to him any type of facility or treatment program. About all that the tribal court can do with that boy or girl is send them back to their parents or

put them in the tribal jail for 20 days, because there are no programs available to help these children.

In the State of Montana a case arose in Rosebud County a number of years ago. The Montana Supreme Court has now held that the State of Montana cannot even contract with the tribes in order to put Indian juveniles into the Montana treatment programs that are available. Some of you who are legislators can introduce a bill that would permit the Department of Institutions to contract with the tribes for treatment of Indian juveniles to, in effect, overule the particular decision of the Montana Supreme Court that I've referred to. This would at least open the avenues so that tribal judges, as inadequate as they may be in some situations, at least will have some place to send the Indian juvenile instead of back out into the same environment from which he came.

Brad Green, Director, Life Skill Training Center, Missoula

The Life Skills Training Center is the first halfway house to open for offenders in Montana. We're located in Missoula, on Fort Missoula property. This program was funded under an initial grant through the Law Enforcement Assistance Administration up until July 1977. It was a startup grant. As of July 1, 1977, the State of Montana has taken over the fiscal responsibility for funding the program, and we're funded for the next 2 years.

I want to share with you my thought about how the person who comes to us for help sees himself, whether he's from the State prison at Deer Lodge or on probation. My perception is that they see themselves as screwups, misfits, and outcasts in society. They identify themselves as losers before they hit the door of my facility. They're angry; they're bitter; they feel that they have been messed over by the system. They are resistive to doing another program. They've been involved in following the rules, and the situation at the prison is such that, with 300 to 350 people there, there's a lot of effort that has to be spent in just disciplinary problems and the reality of having that many people in a large institution.

We have now had seven people come into the center. We have a maximum capacity of 16 beds for male and female probationers and parolees. We have slots for 10 people coming out of the prison and 6 people who are on probation, so we're a combination program.

The surprise once we started getting people into the program was their youth. The average age has been 24, with some people 18, 19. The first thing we see is that they have had no viable role models in their environment prior to their coming into our facility, the Life Skills Training Center. They have had poor family backgrounds, maybe not in the sense of economically disadvantaged, although many of them were, but in terms of family stability. They've had a lack of involvement with family processes, not so much in the strict sense of the family but in the area of a positive involvement in something larger than themselves. They're also looking out for number one.

The people we see seem to have poor interpersonal skills in terms of communicating with other people, negotiating, asking for what they want, poor intrapersonal skills in terms of self-discipline, self-responsibility. They don't seem to know how to solve problems, how to discriminate options, or have any systemic skills that would help them to get from point A to point B. They lack the judgmental skills from never having had to accept the logical consequences of their actions. Many of them have gone through juvenile processes before and been let off, and now they seem to be finally having to hit the reality of taking the consequences of their actions.

In our program, we try to structure learning experiences where they can gain some of those skills. We try to break down the way we look at them into 12 different life areas. It seems to me that when we talk about the civil rights of people, we talk about their being able to regain their freedom and make it in the outside world. It doesn't do a person a bit of good to have all the rights in the world if they don't have the skills to support themselves and be able to take care of themselves in that environment. If you don't deal with the skill issue and help them to learn how to take care of themselves, then you're sending them back into the system. They're going to be dependent, either on the system itself, on somebody else, or they're going to have to go back to criminal behavior.

What we're going to try to teach them at the Life Skill Training Center is that there are skills that you can learn to get by and to pick the best

option and not get yourself backed into a corner or into the pressures of a peer group. Essentially, we are asking them to learn how to take care of themselves and to be responsible adults.

We have divided the person's identity into 12 different areas. There are three major areas, physical, intellectual, and emotional. We have levels in terms of physical fitness and health, also alcohol, drugs, and environment. The intellectual area includes budgeting, employment, vocation, and literacy-education. Other scales are self concept and interpersonal skills. Now, what we do with this is we rank people from a "one," which is low function, to "five." And what we do when they come in is make a basic ranking with them, sit down with them, review their case history, and talk with them about where they're at. What we find is that they are functioning at a very low level. This is what we aim to correct.

Don Robel, Superintendent, Mt. View School, Helena, Montana

The Mt. View School was first established by law in 1893 as part of the boys and girls industrial school at Miles City. In 1919 the State legislature established a separate institution for delinquent girls at its present site 7 miles north of Helena, called the Vocational School for Girls. Why they called it a vocational school I never did know. In 1968 the legislature officially changed the name to the Mt. View School.

From 1920 to 1972 the only type of commitment to the Mt. View School were delinquent girls who were committed for long-term care. The average length of stay for this group during the last fiscal year was 8 months. The recidivism rate last year was 8 percent for this group. In 1972 the Mt. View School started accepting girls who were committed for the 15-day evaluation program. In July 1977 the Mt. View School accepted younger boys who were committed for the 45-day evaluation program. In October 1977 the Mt. View School was approved by the United States Department of Justice, the Bureau of Prisons, as a Federal facility to house and care for female juvenile offenders. In October 1977 I signed a 3-year contract with the United States Department of Justice, Bureau of Prisons, to accept a limited number of female juvenile offenders.

For the past 11 or 12 years, the Mt. View School has been in a state of transition from a custodial type institution to a treatment oriented institution. When I was appointed superintendent in August 1966, I found a rundown, neglected institution with many girls. It was filled with children, and many of these children were more dependent-neglected than they were delinquent. I found an institution where nothing had been painted for 30 or 40 years, plaster falling off the walls, everything run down.

One major change was initiated shortly before I arrived at the Mt. View School. The previous superintendent, the first male superintendent at the institution, opened all the cottage doors during the daylight hours and the children were given the freedom of the grounds. When I arrived at the institution, I was soon a strong believer in the open door program but it was a complete failure. There were approximately 170 runaways that fiscal year before I arrived. The institution was constantly in the newspapers. There were 30 runaways from the institution in one night.

Now, the previous superintendent was more of a social worker oriented person than I am. He was an outstanding man, but he had one belief and that was he did not feel that he nor his staff should search for runaways. He stated that if this is done, one makes a game of it. But I could not simply go to bed and rely upon the police department. At that time they weren't cooperating too well, because there were too many runaways anyway. A girl ran away the night I arrived at the school, and I found I was the only staff member there. I informed other staff members to please report for work immediately, because their job specs had just been revised—now they would look for runaways. There was no equipment except a two-cell flashlight and, needless to say, we did not find the girl that night.

During the next 2 or 3 years it was like a nightmare. The Mt. View School girls ran away again and again. I was sorry I did not major at the time in physical education with a minor in track instead of psychology. We chased them through the fields, over the fences, through the woods, through the creeks, and the city of Helena. They ran at 25 degrees below zero in a foot of snow when it was a matter of life and death to find them. They ran for no apparent reason.

The previous superintendent was right—it was a game—but it was burning me and my staff out. I was determined not to lock those children in those buildings as they were before, but it was apparent that if I could not control them, community pressure would again require they be locked in the buildings.

The problem with running away is that it soon becomes a pattern in one's life. The problem is that running away leads to being on the streets, which includes liquor, drugs, glue sniffing, lighter fluid sniffing, Aerosol can sniffing, and a variety of other chemicals, assault, rape, promiscuous behavior, and prostitution. After street life, all else appears dull and childish, especially school. Once this pattern develops it is very difficult to change, and placement out of the institution is destined to failure unless the girls can develop other methods to deal with problems and pressures.

The Mt. View School runaway problem has become controlled. I simply selected about 12 staff members who were willing to be on call with me 24 hours a day, 365 days a year, and who were as concerned as I was about keeping the open program. Last year there were only 17 runaways from the school grounds, and we apprehended most of them in the Helena area ourselves. We also now have things like car radios and walkie-talkies, thanks to crime control.

The girls and boys now know what it is to have this freedom and they do not want to lose it. And they know we cannot do it alone as staff members. They must help us and they do help us to keep this program open. The open cottage doors is a beginning and is an absolutely necessity at the Mt. View School—without it there is no program. Most of these children have very low self-images and think of themselves as zeroes. One cannot develop a child's self-image or inner self-control by locking them in a building, even if you call it a cottage, a home, or a lodge. The child needs the limited opportunity to develop self-control. If a child can develop enough self-control not to run away from the school grounds or an off-campus activity, this is a major step in the rehabilitation process.

Finally, if a child can develop enough self-control to go home on a vacation, stay out of trouble, and return to the institution on her own, this, in my opinion, is rehabilitation. There are many other factors involved in making our type of program work. First and foremost, there must be a small institution with a relaxed atmosphere. It should be in a semirural area far enough from a city to allow one to open the cottage doors but yet close enough to utilize the many services that are offered in a city.

You can have the finest clinical staff in the world; you can have the most wonderful vocational training programs; you can have the greatest recreation programs, the open program, the off-campus program, the vacation program, and all the rest, but unless you care about each one of those children out there, the whole thing is a waste of time.

Don Holladay, Superintendent, Pine Hill School, Miles City, Montana

I feel very strongly that delinquency is a community problem, and therefore we must be dealing with this problem in the community and not just in the institutions. I am a firm believer that institutionalization should be the last resort.

Pine Hill School, established in March 1893, is located just east of Miles City, Montana, on the site of the former women's reformatory, which had been erected during the territorial days of 1884. It was coeducational until 1919. The purpose of Pine Hill School is to provide the care and treatment, education and rehabilitation of boys between the ages of 10 and 21 who have been committed to the institution by the juvenile courts in Montana.

Operating on the premise that every boy sent to the institution is a worthwhile individual who needs guidance and direction in his life, the staff attempts to give him a feeling of dignity and self-worth. It has been found that the majority of the boys committed to the institution want help and direction in their lives. The programs are designed to meet individual needs, to ascertain the problems and potential of each boy, and to help him change his faulty and negative attitudes towards society.

In other words, one of our objectives is to help him gain self-control so that he can return to his community and live as a law-abiding citizen. The worth and dignity of the individual is uppermost in the minds of the staff. Each boy needs the opportunity to develop his capacities for learning and to develop his talents. He also has responsibility to use his talents for his own well-being and for the well-being of society.

Boys at Pine Hill School are there because they have been impulsive and have made poor decisions. Therefore, one of the major functions is to help them learn self-control and to make good decisions, recognizing that the day-to-day experiences bring about modification in behavior. We operate on the premise that behavior is learned and not inherited and therefore can be modified. Planned lodge activities provide a variety of experiences. Work assignments are geared to provide students with meaningful vocational experiences along with a meaningful program. Therefore, they have the opportunity to work with our staff members in the areas of welding, electricity, and plumbing, kitchen and carpentry.

The capacity of the institution is 150. The average daily population for the past 3 fiscal years from July to June 30 was 131. Due to the concerted effort to find alternatives to institutionalization, the courts are committing boys as the last resort. On November 16, 1977, we had 133 boys on campus—126 of these boys were regular commitments and 7 were for 45-day evaluations. The offenses of these here on regular commitments ranged from deliberate homicide to criminal mischief.

Obviously, boys are not being committed to Pine Hill School for status offenses. Since the courts are committing boys only as a last resort, the average age at time of commitment has increased from a little over 15 years of age to 15.9. Therefore, the average age of boys in our campus has increased from around 16 to 16.6. By law the court can commit a child to Pine Hill School until he's between the ages of 10 and 18, although a judge cannot commit a boy for the first time who is over the age of 18. We do retain jurisdiction until age 21 if the court so indicates. Under the new Montana Youth Act, the judge can commit a boy for a definite period of time. However, in most cases the boy is committed until age 21 or until sooner discharged.

Despite the fact that we are getting an older, more sophisticated delinquent, the median length of stay for the last fiscal year was 8 months and 14 days. It is also interesting to note that the recidivism rate has also been decreasing in the last few years. For fiscal year 1974 to 1975, the recidivism rate was 15 percent; for '76 and '77 it was 12.6 percent. The national percentage is around 35 percent.

The recidivism rate is not to be confused with the number of returnees on campus. The recidivism rate is determined by dividing the number of boys on aftercare into the number of boys who are returned to Pine Hill School in that fiscal year. The returnee rate is determined by counting the number of boys on campus who have been released and returned. In many institutions, this percentage is around 50 to 60 percent. On November 16, 1977, 30.8 percent of our boys were returnees. The boys were housed in six lodges on our campus; General George Custer Lodge has been designated as the receiving unit. All new admissions are placed in this lodge until the clinical services department and the other staff members have had time to evaluate them.

Boys are the greatest security risk during the first 2 months of confinement at an institution. After a student has been at the institution for 4 to 6 weeks, an intake conference is held. All of the people involved in working with this boy are present at this conference, and at this time an individualized program is worked out. Crazy Horse Lodge is used to house younger boys, ages 10 to 14. Boys are assigned to either Charles Russell Lodge or Marcus Daily Lodge according to their individual needs.

The majority of the boys sleep in large dormitories, except in Chief Joseph Lodge. Chief Joseph Lodge is operated on a relatively new concept within institutions. The boys assigned to this lodge have many more freedoms and much less supervision than the boys in any other lodge. These boys have keys to their own rooms in order to lock out staff members rather than to be locked in. The doors of this building are unlocked when the boys are in the building. They participate in many more off-campus activities than the other boys. The overall purpose of this lodge is to give the boys more responsibility for their own behavior and the opportunity to test their own decisionmaking processes.

Lewis Lodge has been designated as the lodge to house boys with special security problems and who are generally disruptive in the other lodges. These boys are involved in a regular school program and are detailed to areas during the day but do not have the evening programs. Therefore, they are

provided a much closer supervision because they have had histories of running. A survey has indicated that the escape ratio is much greater for parole violators than for new admissions, and boys in this lodge, when they show that they have gained some self-control, may be moved to the other lodges.

Clark Lodge is used as the discipline and special treatment lodge. Clark Lodge is used for students who present serious behavior problems such as running away and assaulting staff members and other boys. The length of time the boy spends in this lodge has varied over the past 10 years. The old phase one was closed in the early part of 1976. The average length of stay in Clark Lodge from October 15, 1976 to October 1, 1977 was 3.01 days. This average does not include the five boys who were in this Clark Lodge on a modified program. The overall average daily population for this period of time was 6.67 boys. For a 45-day period from August 17, 1977, to October 1, 1977, there were 9 days where we had no boys at all in this lodge.

In this lodge we do have maximum security, and boys are placed in this lodge who have serious behavior problems. This is the lodge that was constructed just prior to my coming there. I have never been in favor of this lodge and you'll see some plans over there to replace this lodge and totally close it. We do have recreation provided in this lodge where the boys are taken out of their rooms and provided recreation every day during the week. All lodges have had their own dining room since October 1968. The meals are centrally prepared in the kitchen and are delivered to the lodges in food storage carts. This program lends to a more homelike atmosphere and to less movement of the boys on the campus.

Our infirmary has been moved to the second floor of the administration building. Boys in need of special nursing care utilize this area. They are under the care of two registered nurses. These nurses also visit each lodge every day, and there's a sick call at the infirmary twice daily. If a boy needs more medical attention than can be provided on campus, he is taken to one of the local doctors or to the local hospital. We also take a number of boys to Billings or to Dickenson, North Dakota, for some specialized medical care. Dental care is provided for all students whose parents cannot afford to pay for this service. We also have free movement of the boys in between their classes and from their lodges to their detail areas or to the classes.

The case conference committee referred to earlier is a group of key staff members who plan each boy's program on an individual basis. The committee is made up of key members of the clinical staff. The high school here is accredited and the boys can earn credits, and these are accepted in any other school. Boys 16 years of age or older are enrolled in our school programs. The boys over 16 are encouraged to go to school but are not forced to go to school. If they are over 16 years of age and do not want to go to school, they are transferred to Swan River.

We do have special rehabilitation programs and individualized instruction, as you can see. Our classrooms are small and our prevocational buildings enable boys to pick up vocational skills. In this area a boy is provided auto mechanics, auto body repair, small engine repair, carpentry, and a number of other programs. We are one of the few training schools that compete in competitive sports with other schools throughout the State.

In essence, it is the desire of the staff of Pine Hill School to release a boy as soon as possible back into the community as a law-abiding citizen. We are pleased that the majority of the boys leave Pine Hill School and make something of their lives.

We also have a student council that I meet with weekly to talk with them over any problems and any suggested changes. We operate a farm that produces all of our beef, milk, and potatoes and many other items.

We do have some needs. We need a full-time psychiatrist. Some of the old lodges need to be replaced. We need more staff—I asked for 16 new staff positions last year and I received 2. We need a higher salary schedule. Other agencies can recruit staff members out from under us.

Melvin Mohler, Superintendent, Swan River Ranch

When we first started the Swan River Youth Forest Camp in 1968, we had three objectives in mind. Number one was to be deinstitutionalized so that we were not the traditional bricks and mortar that make up a traditional institution as it was

known in the past. We wanted to be different and to do things a little bit differently. For instance, we have absolutely no security of any kind. If a boy wants to run away, he steps behind a tree and he's gone. However, he's cautioned to watch out for the bears before he gets to the next tree.

We also wanted to meet individuals' needs as much as we possibly could. Rather than get locked into one program in which everything was done exactly the same for every boy, we started the program of meeting the need of each boy, individual needs, as much as we possibly could.

And then the third thing we wanted to do was simply to do the first two things in as short a time as possible, so we didn't also get locked into a program in which a fellow was being trained to remain in an institution instead of being trained to get out of the institution.

The first day a fellow gets to the camp, his planning is started immediately for his release rather than for his stay at the institution. We have several things going for us at the Swan. First of all is the setting. It's beautiful, it's picturesque, it's outdoors—the spirit is there. And if you don't have this type of setting, I don't think you're ever going to produce any kind of an environment that will lead to change. Our planning is pretty much predicated on what the kid himself wants to do. Each resident's progress is evaluated before staff committee each month. The resident participates in this evaluation.

The relationship between the boy and you is a very intense one. This is where the planning is done for the program, and the student enters into all of his release planning so that his ownership in it then is very great. It's his plan and not a plan that somebody has developed for him. What we try to do is to produce in a boy an awareness that his home problem will still be there and he is the one that's going to have to change. If he wants to deal with the problem at home, then he's going to have to get himself into the position where he can deal with it.

We have a half-time chaplain who meets the individual, spiritual, and emotional needs of the fellows pretty well. He is not able to do everything that a minister at home could do, but we go to church in Swan Lake every Sunday. It is noncompulsory, but an average of 12 to 15 boys go pretty regularly.

Our education program, I think, is one of the better programs. We make sure every kid has a driver's license so that he can be a legal driver when he gets out. They are all going to drive and we try to make sure that they have a driver's license. We also teach survival—job interviews, filling out application blanks, check writing, filling out 1040 forms, living arrangements, renting an apartment, and shopping for groceries and clothing. The major portion of the education program is in helping a fellow attain a GED certificate. Last year there were 45 GED certificates issued to the fellows in the education program, to boys who had absolutely quit any kind of an education program before.

Just recently a work training program has been started. Job service people have taken all of their other "hard to employ" programs, the world of work, the OJT, job developers, voc. tech., and skills improvement, and moved them into one unit, which they call their work training unit. They have extended this to include people in institutions, so that they are eligible for and part of this work training unit while they are in residence at the youth camp. We have an alcohol-drug counselor now. We have found that about 87 percent of our kids are directly into alcohol and drug abuse in some way.

Our work program is conducted by the State forestry system. We aren't able to train for specific skills but rather pick up on trying to train for good work habits. All the carpentry work for the State forestry system is done at the youth camp—there is a mechanical program where the State forestry system brings in military excess vehicles to be rebuilt into fire engines. The fellows receive training as fire suppression crewmen.

We have some special problems, however. We are dependent on two other institutions for our population, causing ups and downs in population, which is sometimes hard to deal with. At one time we were receiving direct commitments. I would like to see us become a youthful offender center in which we have our own entity and receive our own receptions, rather than depending on two other institutions.

Also, we need space for privacy, personal property storage, for visiting. I would like to have a new multipurpose building, part of it with a dirt floor and part of it with an indoor recreation

court. We would like to get into the Outward Bound program, but this takes money. I would like to see a followup system in which we receive feedback telling us the things that we have done that have been effective and the things that we should have done that could have been more effective.

I have read that a pessimist sees the tunnel, and the optimist sees the tunnel and the light at the end of the tunnel, and a realist sees the tunnel, the light at the end of the tunnel, and the next tunnel. I hope that our young men are realists when they leave us.

Steve Nelson, Montana Crime Control Board, Helena

Our clients are the people who provide services within the system. For the most part, we try to help them and try to help them do their job a little bit better.

In Chicago in 1899, a concept developed with several basic tenets, the first one being that basically youths were a minority population and that they were not necessarily accountable for their criminal actions and should be dealt with in a special fashion. Furthermore, the purpose of the juvenile justice system should be to rehabilitate and not to punish juveniles. The dispositions in the juvenile court should be geared towards the juvenile, not necessarily towards the crime. Of primary consideration, there was a need to get away from the adversary nature of the adult court and to try to make the juvenile court a court that was a friend of the youth and a court which would work in concert with the youth to try to resolve some of his problems.

The Montana Youth Court Act of 1974 was passed, as its primary consideration, to improve the protections for juveniles who were coming before the court system. I think we have made some vast improvements in the prosecution and the defense area as a result of the Montana Youth Court Act. I would venture that 4 to 5 years ago there were probably not a half a dozen lawyers in the State of Montana who had even read the juvenile codes. Today you're seeing a greater activity on the part of defense attorneys, and, as a result, the prosecution seems to upgrade their services.

Much of the activity of the board of crime control has been with the juvenile courts in working with probation programs. And we've gotten into some areas that are very touchy in the area of civil rights, the biggest being diversion programs. We haven't had a great deal of success with diversion programs. The greatest danger is that many of the programs we've funded tend to expand the net rather than create an alternative for youth who are coming before the juvenile justice system or corrections agencies. There's a real tendency to set up programs as alternatives to particular sorts of services or particular treatment modalities. The new services then become services which generate entirely new populations. And I think LEAA has been guilty of vastly expanding the net in the juvenile justice system. I don't know whether that speaks to our advantage or not.

Our primary problem in this day and age is the Juvenile Justice and Delinquency Prevention Act, which was passed in 1974. The basic tenet there is that status offenders by their involvement in correctional institutions are having their rights violated. I suppose this is the biggest civil rights issue right now in the juvenile justice system nationally. We are having a number of problems in our office trying to implement the act.

The basic problem with the juvenile justice act is that the act, in and of itself, gives you broad responsiblity and talks about prevention, treatment programs, and everything under the sun. It speaks in some very idealistic ways of nice projects that you could fund. There are a couple of paragraphs in there that mandate the States that are participating in the act to deinstitutionalize status offenders within 3 years. The consequences if you do not deinstitutionalize within 3 years is we have to revert funds. Now they're threatening that we would lose future LEAA funds from other segments, and possibly even have to revert funds that we did spend, if we do not deinstitutionalize.

The other thing they talk about is we've given ourselves 15 years to separate adult juvenile offenders within all jail facilities. Now, the costs for those things in the State of Montana, especially the separation of adult and juvenile offenders, is far more extravagant than the $200,000 a year that we receive for it.

So, based on the requirements of the act, we've had to funnel all the money that we get under that program into the deinstitutionalization programs, and what we fund there is the shelter care plan

through the Department of Institutions. We've given them a block of money and through that program we support five 0Attention Home0 programs and a couple of short term, emergency foster care programs in a couple of jurisdictions.

Within the act they classify the correctional facilities as local lockups and local jail facilities. Two years ago we began a study of the State's jail facilities and detention facilities and drew up a plan we called the Detention and Shelter Care Master Plan. Some of the data that we came up with as we were writing the detention shelter care study were that, basically, Montana doesn't have a vast population of kids in its jails. That precludes the construction of large scale detention facilities, and we've gone on record as opposing the construction of these sorts of things.

The split between boys and girls incarcerated is roughly 60–40. Approximately 85 percent of the females who are incarcerated are status offenders. The girl status offenders, if they were not released within 1 day, tended to remain in jail 4 days, on the average, and up to 15 days in one case. A major problem in Montana is that of female status offenders being incarcerated in local lockups.

Another problem we have are the out-of-jurisdiction runaways. I don't think we're ever going to get to be in a position where we can remedy the particular situation in which the person comes from another jurisdiction, primarily out-of-State. The local officials do not know who they are; they do not know the particular problems that that person might have. All they know at that point in time is that the person is a runaway, which is merely a status offense. But they are forced to use secured custody in order to hold that person for the other jurisdiction.

Larry Ellson, School of Law, University of Montana, Helena

I first want to discuss the Indian population at the University of Montana Law School, which is a legitimate concern in this State because courts have a tremendous impact upon the juvenile justice system and lawyers have a tremendous impact on courts. We don't have a program, and we need Indian lawyers to work with Indian juveniles. We've had very few Indian students in the law school, not a good situation considering the population in the State of Montana and the needs.

What are we doing? Two things. Some of us have worked very diligently to establish a separate program to try to increase the admission of Indian students into the law school. This has been developed in conjunction with the Native American Studies program at the university. It has been sanctioned by the law school, by the Native American Studies program, and by the university administration.

The curriculum outline has been developed, and we have been working to obtain funding for the program. Our last application was to the Labor Department and HEW for funding of this program. It would include a separate track into the law school, and it would include special on-the-job training for people who have some interest in the law or some need for legal training. It would include a paralegal program for Indian lawyers, or for people working in Indian law.

Second, the admissions program at the University of Montana, as of this year, has been changed. Up to this year it had been based exclusively on numbers, i.e., undergraduate grades and law school admission tests. They are now opening the door to consider other factors, including economic disadvantage. This approach would assume that there may be some economic or cultural disadvantage, and for the student who could not get in on a regular basis provide a special approach to get into law school. In that event, it would take 4 rather than 3 years to graduate, becuase you would be taking someone who you conclude on the basis of the test exams, etc., was culturally and economically disadvantaged and therefore would have one devil of a time in terms of competition in law school. So you give them a special year comparable to the CLEO program, which gives special training before you get to law school. This would be special training for those students who could not get in on an equal basis. If they can get in straight out, this extra year is certainly not required; it's another way to get in for those Indian students who would not be admitted otherwise.

There has never been any discrimination in the law school in terms of admissions. It's the faculty, the administration, and the other students that have some biases and prejudices and create an attitude that's very unsatisfactory. I do not know how to deal with that, but it exists. I flat out recognize that. It's not the admissions program and

it's not a special discriminatory approach; it's reverse discrimination because other students who could not get into the law school would not be given the advantage of this special way in. They would have to compete flat out, make it or stay out, that's it, and all Indian students should be admitted on the same basis, they feel.

In regard to juvenile justice, the first of January 1978, or not later than 15 or 30 days thereafter, a study to evaluate all of the needs to justify direction to the juvenile justice system will commence. Over $100,000 has been committed to that investigation for evaluation and projection. It's broader than the juvenile justice system but part of it will include the juvenile justice system.

The next question I will talk about is the abortion law. We are bound to a medical requirement to take care of the medical needs of the girls and women who are committed to the institutions of the State of Montana—that is a legal demand. It would be denial of due process, equal protection, and probably cruel and unusual punishment, if we didn't follow through in terms of those medical needs.

Now, how do we deal with those medical needs? We're facing a whole panoply of law—one, as you know, the *Roe* and *Doe* decisions, for example, which makes an elective abortion the business of a woman and her physician. We recognize that. As a response to that, the legislature passed the abortion package. It is the intent of this legislature to restrict abortion to the greatest extent possible compatible with paramount legislative case decisions. So that's where they stand. Subsequently, parts of that particular provision were declared unconstitutional. The consent of the husband, for example, or spouse is no longer required. They refused to rule upon the necessity of obtaining consent from the parent, but I don't think the parental consent, if it acts as a veto, would withstand the impact of the Planned Parenthood of Missouri case. Further, we can conclude that the Department of Institutions and the school for girls have supplanted the parent in making those decisions—they've taken the girl away from the parent at that point.

We recommend that every girl, when faced with this problem, will go to the doctor, and in conjunction with the doctor, a decision will be made and it will be between that girl and her doctor. It will be a medical decision in conformity with the law, as we understand it at this point. Furthermore, if the girl is not satisfied with the first doctor, he will provide her with another doctor. They're not going to simply take her to a single doctor. Next, in terms of financing, it has not been decided whether it would be a violation of the Federal law in a program of State funds that use Federal funds whether it would be a violation of the Hyde amendment.

Jeanette Ganousis, John Dicke, Mike Meloy, Jean Ellison, and Jerome Cate expressed the opinion that there is disparate treatment of juvenile and adult offenders. For example, because of the concept of parens patriae, Ganousis felt that juveniles are incarcerated for longer periods of time for the same crime than their adult counterparts. Additionally, juveniles are not given the rights of bail or of pretrial release. According to Dicke, children are often placed in a juvenile home or a mental institution, without committing a criminal offense, at the whim of their parents or guardians. He stated that this happens because children are denied the right to due process that adults take for granted.

In regard to Indian juveniles, Cate observed that they are potentially subject to three jurisdictions—Federal, State, and tribal courts. As a result, Indian juveniles are sometimes treated as adult offenders and receive stiffer punishments than their non-Indian peers. In addition, Indian juveniles may serve their sentence outside Montana, since the State has no Federal juvenile facility. Cate further said that a paucity of tribal facilities and treatment centers are available to juvenile offenders and that State law prohibits contracting with tribes, eliminating help by Montana treatment centers.

Brad Green, Don Robel, Don Holladay, and Melvin Mohler discussed their correctional facilities, while Steve Nelson reviewed the function of the Montana Crime Control Board and discussed the Juvenile Justice and Delinquency Prevention Act of 1974. Nelson thought the act was too broad in its scope and expressed the opinion that it requires more services from corrections institutions than the State has provided funds. Larry Ellison stated that there was a need for Indian lawyers to work with Indian juvenile offenders. According

to Ellson, the law school has had few Indian students although the admissions program has sought, through a specialplan,to increase Native American enrollment. He further pointed out that the Montana abortion law, as it applies to the juvenile, has not been fully understood or tested.

The Concept of Corrections

Jackie Crawford, a consultant with the Nevada Department of Prisons, described what she felt to be an innovative corrections program in Nevada and called for programs meeting the unique needs of female offenders. Assistant Warden Charles Burgamy (Purdue Treatment Center in Washington) discussed his institution's program and how he saw it benefiting women inmates. Robert Frazier, a representative of the Native American Rights Fund in Boulder, Colorado, talked about disparate treatment of Indians in criminal justice systems. He cited the Swift Bird project as especially designed to meet the needs of Indian inmates. James Zion, of the Montana American Civil Liberties Union, presented a philosophical view of Montana's corrections systems. Warden Roger Crist reviewed the history of the new Montana State Penitentiary, and B.J. Rhay, Administrator for the Montana Division of Corrections, discussed his division's role. Curt Chisholdm, Deputy Director of the Department of Institutions, described the function of that department. Two penitentiary inmates, Gary Quigg and Dennis Plouffe, stated their views of problems in the corrections system. John Maynard, a legal intern of the Montana Defender Project in Missoula, explained the ramifications of that project. Mike Bear Comes Out, a juvenile probation officer for the Northern Cheyenne Tribe, closed the consultation with a statement of concerns for Indian juvenile offenders.

Jackie Crawford, Consultant, Department of Prisons, Nevada

Only in the last few years has it been that corrections has come to be recognized as an independent area that needs to be part of a total system and not the forgotten stepchild, as it has been for many decades. This gives the entire corrections system an excellent opportunity to try innovative ideas with small populations without spending large amounts of money and utilizing various resources. We all are aware of the way in which tax dollars trickle down through the criminal justice system. We know that the criminal justice system is at the bottom in terms of public expenditure priority. Furthermore, within the criminal justice system, corrections is below police and courts.

Within corrections, the female offender has always received the smallest share. This large pie has been sliced and resliced until only minute portions of the original remain for women's corrections. As a result, we find that this small number of correctional clients has been all but ignored. Programs for women have traditionally been watered-down versions of activities tried in men's institutions. In short, for almost all of the history of corrections in this country, women's corrections has not been recognized as part of the system.

However, within the last 5 years, we have seen the beginning of a rapid change that is going to impact heavily on all corrections systems within the country. Women's corrections is moving toward being allowed to participate in the corrections system of several States. It is being allowed to design and adopt programs that are essential to meet the unique needs of the female offender. A number of female institutions' populations have not only doubled but tripled. Presently in the State of Nevada there are 85 women. Approximately 3-1/2 years ago there were exactly 12.

I'd like to share with you a profile that recently was compiled on nine female offenders in the State of Nevada. We're essentially looking at women who have been sentenced for the crimes of robbery, grlarceny, and possession of controlled substance, forgery, or first degree murder. Fifty-four percent will be white, 45 percent will be between the ages of 20 to 25, and 80 percent are first time felony offenders. But 63 percent will have had prior arrests and there is almost an even chance that they will have been arrested five times or more. Their sentences will be for 6 years or less. There is a good chance (29 percent) that they have graduated from high school or have a GED completed. They (13 percent) were probably unemployed at the time of their arrests, and any

work (63 percent) they had done prior to incarceration was of an unskilled nature. If employed, their average stay on any job was probably 5 months or under. There is an excellent chance (96 percent) that they were chemically dependent. Alcohol dependency affected 37 percent, and those with both alcohol and drug dependence amounted to 22 percent. These women probably read at a junior high level (40 percent) or below (21 percent) and are either divorced (41 percent) or never married (30 percent).

Regardless of marital status, 61 percent probably have at least one or two children. Some 62 percent were unmarried mothers, with the probability that they must assume responsiblity for their children once they leave the institution. We are then looking at very unskilled individuals, primarily never employed, and yet they are having to assume the role of sole support for their children once they leave the institution.

Without regrooving some thought patterns of that individual, we are returning her into the home where she will be grooming candidates for our prisons, both male and female, in the next 10 to 15 years.

We have been talking about women who have been arrested five times or more. Historically, judges have been reluctant to sentence a women until she has been so mired into the criminal justice system that he has no alternative. But obviously they're beginning to look at this more closely and that's why our populations seem to climb very rapidly.

My concerns are that maybe we need to look on the county level to do something, with a smaller number of women being incarcerated or put into the criminal justice system than males. I've come up with a concept that I'd like to introduce to you. My concerns are more for the rural States than the metropolitan. I'm calling it the Comprehensive Service for Female Offenders. The basic premise of this proposal is that by unifying correctional processes relative to the female offender under the umbrella of a comprehensive service center, there would be better utilization of resources and more effective services for the offender.

There is now consensus that the woman offender has unique needs that are not met on the county level because of the large portion of men and the small percentage of women. These needs are seldom addressed at the State level because of the small number of women and the tendency to apply the male correctional model to the female institutions. While there are some myths about women and some erroneous sterotypes applied to the female offender which obviously cloud the decisionmaking process, the critical issue becomes one of cost effectiveness, and on that score that male offender has historically offered the best potential for an effective return on the correctional dollar. The key, then, is to develop a program that meets the unique needs of the female offender, pulls her out of the shadow of the male correctional model, and provides an effective transition back into the community at a more acceptable cost per client. Examples of services that would be provided are as follows:

The county and local levels: At the time of arrest and initial incarceration, local sheriffs and police would contact the service center for initial services, which would involve an assessment of immediate need with respect to child care, medical needs, notification of family, notification of employer, maintenance of housing and/or household goods. Based on the individual progress through the court system and their status with respect to potential sentencing, the center would accomplish the following—psychological testing, academic and vocational testing, assessment of eligibility for local programs, staffing, and setting up potential plans for women. In those cases where the woman is put on probation, the information that has been accumulated and the center's recommendation would be reviewed with appropriate officials. The center would continue to assist by facilitating the provision of supportive services that were identified during the assessment process. When an individual is incarcerated, the service center member follows a similar process with institutional officials and continues to work with the individual as she moves through the institution.

Institution and Incarceration: During the individual's incarceration, the service center member will continue to counsel with the woman, cultivate supportive resources within her own community, facilitate visits with family and children, and prepare a program that would meet her individual needs upon parole.

Parole: Once again, the service center will bring forward all of the information that has been

gathered on the woman to date to brief appropriate officials. In this instance, the service center will provide transitional assistance for a period of 4 to 6 weeks without minimizing their primary charge of care and custody. Aftercare programs would have a definite sense of structure for the individual prior to her release. Practitioners would benefit from the majority of data collection and resource development, and would be in a position to follow through rather than to begin anew. Overall, the client will benefit from a continuity of services and an ongoing counseling relationship that the current structure of probation, incarceration, and parole precludes. Her treatment program, her contact with the youth system, will take on a degree of consistency and predictability that to date has not been realized in the field of corrections.

How would we fund this program? We need to go on the State level, and the county officials should contract with the State or utilize this service center as a resource center. But until we begin to reach that individual on the county level, I feel that she is going to have to go through many, many, many systems; and I think many people are going to suffer because of her behavior—the children and also the grandparents who have to care for those children.

Charles Burgamy, Assistant Warden, Purdy Treatment Center, Washington State

Purdy Treatment Center has gained some national recognition in the corrections field. The planning for Purdy started about 11 years ago. We wanted to have an institution uniquely designed for women, to meet the specific needs of women. Prior to this time, the State penitentiary at Walla Walla had tacked on women's quarters. In February 1971 we opened our facility with 92 women. The count Monday was 243. The more beds you have, the more women you're going to have committed, and I think this is true with men, too. This is one hard lesson that we've learned.

Originally, the institution was designed for 173. On campus at this time we have 196 and 47 more are in the community. The original concept was that 50 percent of the women would be in the community. Six years later we haven't achieved that goal, simply because there aren't the resources in the community for women.

To give you a little history of Purdy and how it operates—every woman in the State of Washington who is convicted of a felony and sent to prison comes to Purdy. We're the only facility. A woman is received and remains in a reception unit for approximately 4 weeks. In this time she is given a complete physical examination, psychological testing, vocational testing. Specific needs are also identified at that time, such as placement for kids, family counseling with the husband. At the end of 4 weeks we meet with that woman and with her participation develop a treatment plan that consists of short- and long-range goals. At the end of this meeting, the woman signs a contract to follow this program. Every 12 weeks the woman has the option of having this contract renegotiated. Our goal is to have at least 75 percent of the women in the community at least 6 months before they're released, because we have found we have the most success when we can have at least 6 months of supervised work training in the community.

The program is broken down into three specific need areas: vocational, educational, and personal needs. Each woman at the treatment center is required to participate in a minimum of 20 hours in programming per week. We have 82 jobs on campus that range from the traditional secretarial work to electrician's helpers. The rate of pay is from 25 cents an hour to $1.50 an hour. Each job has a graduated rate of pay, based on your performance and evaluations. We have a staff of 123, which includes 57 counseling staff, 2 social workers, and 1 clinical psychologist. Our focus really is to assist the woman to gain coping skills, so that when she is released she will not have to go back to writing bad checks to suppress her anger, her frustration, but rather will have the skills to seek resources in the community.

Within the institution, 2 years ago we found that a lot of women were involving themselves in programs simply to look good for the parole board. This is a traditional game that goes on at every institution I've ever been at. If you go to the parole board looking good, chances are you're going to get out quicker. As a result, we had quite a few women coming back because problem areas had not been worked on. Therefore, 2 years ago we instituted a behavior management program for the entire institution. This is simply a five-level program of responsibility.

In order to gain privileges, a woman has to demonstrate that she can handle responsibility. If you don't want to work you don't have to. The commitment order does not say hard labor or that you have to work, but it also does not say that you get any benefits. So if you want to do your time, we let you do your time, which means that you're in your room and you don't have any benefits, because you weren't sent there to get any benefits. As a result, we have 100 percent participation in the various programs.

To close, I would like to say that back when I was a young graduate student, I was thinking I could save the world. I had a German psychiatrist who was my supervisor. I used to express a lot of frustation with not being able to change people. One day he looked at me and he said, "I want you to remember one thing—you can't make chicken soup out of chicken bones." What that means is, don't put your expectations for another person on a level higher than they can achieve, because what happens is you get failures. And I've found that to be very true.

Robert Frazier, Native American Rights Fund, Boulder, Colorado

I'd like to talk about Indian offenders and our work at the Native American Rights Foundation. For the past 2 years, the Native American Rights Fund and the Cheyenne River Sioux Tribe have conducted a joint study into the feasibility of a plan to develop and implement an Indian-controlled, community-based corrections center for Indian offenders. This project is a cumulation of research data and litigation conducted over the past 4-1/2 years by the Indian corrections project of the Native American Rights Fund.

Indians are incarcerated in local, State, and Federal correctional institutions in vastly disproportionate numbers to their population. For example, in South Dakota, the Indian population was under 5 percent in 1970. However, 34.6 percent of all those arrested in the State of South Dakota were Indians. The Indian population in the State penitentiary in Sioux falls is 33 percent. The Indian population in the women's prison is 50 percent. In Montana the Indian population is 3.7 percent, yet in the prisons the Indian population is 33.3 percent. In Minnesota 4.4 percent of the population is Indian, yet 12.5 percent are in prison. In Nebraska the State population for Indians is about 0.4 percent, while the prison population is 6.4 percent. In North Dakota the Indian population in the State is 0.5 percent, yet in the prison population 17.5 percent is Indian.

We find that Indians are incarcerated in penal institutions in disproportionate numbers. Virtually every Indian family has some relative in prison. The human and social losses in Indian communities are enormous. It is crucial that Indian offenders be rehabilitated in such manner that they can return to their home communities as productive tribal members and not return to prison.

We find that most prisons systems are ill-equipped to provide Indian offenders with the types of skills necesary for them to function in a bicultural society. The primary reason why Indians do not receive equal rehabilitation opportunities in penal institutions is that most correctional theories and programs in use were developed to meet the needs of the non-Indian offender. The programs are administered by non-Indian employees. The values and attitudes of the Anglo society are reflected in all the aspects of confinement and rehabilitation. Any correctional official who lives in Indian country can confirm that the values and learning experiences of Indians differ greatly from that of the non-Indian as do the factors which lead to criminal behavior. Those traditional Indians who do not or cannot fit into programs designed to treat non-Indian offenders do not perform as well. The results of such a system deny the Indian offender the benefits of rehabilitation, and deny him the opportunity to participate in such a system.

In parole we find that because Indian offenders do not participate well, they are denied parole. We find that the Indian offender serves a longer original sentence than the non-Indian, and the ratio on that is as high as 15 percent in some areas.

Now, when we looked at these, we found that by going into courts we were attacking the problem from the wrong end. The Indian people are already in prison; they were suffering from cultural degradation. And so we decided that there must be alternatives to sending Indian people to prison. Then we sat down and started thinking about Swift Bird.

Swift Bird is located in South Dakota. We plan to contract with five target State areas: Montana, South Dakota, North Dakota, Nebraska, and Minnesota. The programs are designed so that they incorporate the values and concepts of Indian culture. It would be a minimum security facility for adult male offenders having 1 year or less remaining on sentence. Jurisdiction of the residents will remain with the sending institution.

One of our primary programs will be survival skills. We will be developing a program where the Indian offender will be able to function in a bicultural society. We will start with the premise that in traditional Indian society, the Indian hunter went out to provide for his family. He knew the resources that were available in his area. He had the skills necessary to secure those resources and bring back food to provide for his family. So, the question we will be answering is—how does the modern Indian do this in today's society? The Indian offender will learn about the resources available in his home community. He will know how to get in touch with people; he will know the forms he has to fill in; he will know how to read and write and have an elementary understanding of what is required of him in his job.

Spiritual education will play an important role. We find that historically the government formally and informally has suppressed Indian religion. We find that in prisons, when offenders go before parole, the parole boards look at the records and mark that religion; participation in religious programs plays an important role. The Indian offender does not participate in the non-Indian religious programs and therefore is denied the points necessary to receive parole. Indian religion is not recognized as a bona fide religion. We have had to go into courts and prove that Indian religion is a religion, on the same status as Christian religion.

In the prisons there are churches for Catholics and Protestants, and yet when the Indian offenders say that they want their own church—the sweat lodge, medicine men to come in—the prison people decide no, it's a security risk, it's no good. We have to go in, then, and bring in consultants and experts to say, "Yes, it is a religion; it still exists today; it's not structured as Christian religion, but yet it does exist." It plays an important role by introducing positive influences into the life of the Indian offender. A lot of the negative things that bring about his incarceration may go away through religious renewal.

We find that 80 to 90 percent of Indian offenders in prison are there for alcohol-related crimes. So we're not dealing with a criminal; we're dealing with a person who is having some problems, personal, with the family, with the community. We find a person who is caught in a web that is filled with regulations from the Federal Government, State government, county government, city government, and tribal government. And under all this forest—because positive influences are rare, because we are new to the concepts of non-Indian government, because all programs that Indian tribes have are designed to meet the non-Indian needs—often things just aren't working.

Swift Bird, therefore, is going to be experimental. We will start with a regional concept of five States. We realize we will be successful because we can't do worse than what presently exists. The benefits will be great for other correctional departments, as well. We will be introducing programs that they themselves can use. We will be developing training programs for correctional people. We will try to implement programs where there would be more Indian people in the correctional field. We find that not enough Indian people are involved in the rehabilitation of their own people. By contracting with the States, it's another step for sovereignty for the Indian tribes, because then the States are saying, "Yes, you are a sovereign nation; we can contract with you on an equal basis." This is very important.

On the tribal level, we are telling the tribes that if we are a sovereign people, we are responsible for our people. We must rehabilitate the people. We can no longer send them to prisons, let them sit there and suffer by themselves and not care about them. We have to bring them home and take care of them. We have elderly people; we have medicine men; we have spiritual leaders. These people must be utilized. No longer must we allow Anglo-dominated theories to tell us what to do. We have to look at our people, look at our past, our religion and our culture. The answers are there.

We have to develop these into such a context that they will survive in this society. We have to bring the traditional values and concepts and incorporate them into modern theory. It is our belief

that heavy influence by traditions will play an important role. And therefore we hope that Swift Bird will be a start, a beginning. We will, after a period of a year or so, branch out into other religions. We will try to get the tribes to support us so that they will develop their own local centers, so that no longer do tribal members have to be transferred away from their homes and families but can stay in their home areas.

We will be developing and utilizing Indian-oriented GED programs. We find that the Indian offender lacks his high school equivalency. So we will bring them up through Indian-oriented GED programs, and the programs will be individualized. Everything is experimental, but, like I said before, we can't do worse than what's already been done.

James Zion, President, American Civil Liberties Union, Montana Chapter

The American Civil Liberties Union in Montana is an all-volunteer organization interested in one very special interest, namely, restrictions against various government agencies that protect individuals. I'd like to go from a more general and philosophical point of view on the various forces that affect corrections in Montana. And, of course, these same forces apply not only to the corrections systems, but to justice systems and other systems as well that we traditionally don't think of as being justice systems.

Now, when I talk about corrections, I'm not simply referring to the jails, the prisons, the mental institutions, the juvenile facilities; I'm referring to everyone who has contact with the corrections systems. And these forces affect the arresting officer, who is part of the corrections system, the prosecutor, the defense attorney, courts, jails, probation, and parole, the various other institutions, and, of course, the Montana State Prison itself.

And we are all subject to these various forces. Generally, the forces that we're having problems with in Montana are those that cause individuals to pigeonhole other individuals. We like to have orderly ways of looking at society, and so we place people in categories that I call pigeonholes. The unfortunate part is that sometimes we place people in pigeonholes that are not appropriate for our society.

The other general approach that I have seen in society, both with governmental units and with private persons who are having impact on governmental processes, is what I call the "trashcan approach." We take various people in our society and we throw them into the trashcan, be they prisoners, be they Indian, be they women, be they persons who are subject to mandatory retirement. And I think this is unfortunate.

Now, the first kind of pigeonhole that we have is known more popularly as racism, which I define as a more intentional factor. Then there is racial stereotyping, which I guess is a kinder word to apply to people who do not realize that they are judging people or treating people according to their ethnic background.

I noticed in the film last night, "Beyond Bricks and Mortar," that the statistic cited there on the inmates was that 25 percent of the inmates at Deer Lodge (for whatever period that statistic was compiled) were Indian, compared to a 5 to 6 percent population. When you take a look at the statistics for crime in Montana, the 1976 annual report from the Board of Crime Control, you can see that 39 percent of the arrestees in the period of June 1976 to June 1977 were Indian and 1 percent was black. And that is compared to a very low segment of the population.

We heard Mr. Frazier cite the statistic of 33 percent Indian prison inmate population in Montana, as compared to 3.7 percent in the population. When you go over into a related area, namely, foster placement of children, you find a statistic that in Montana 23.9 percent of the foster children are Indian, compared with an off-reservation population of 1.2 percent.

Of course there's the old saying that statistics are nothing more than numbers looking for an argument. And it may be argued that these statistics, in fact, do not reflect racism but may be a function of other factors such as poverty. I would simply suggest to you that poverty, too, is a product of racism or racial stereotyping.

Another example of the problem that we have with discrimination in Montana is the fact that we are having a confrontation now over Indian issues, and we have extremist organizations such as Montanans Opposed to Discrimination, or MOD, stirring up the dust.

One problem I notice with regard to parole is if, in fact, parole decisions are made on the basis of finding employment in the community. What do you do with a situation, for example, when the current unemployment rate at Rocky Boy Reservation near Havre is estimated to be 70 percent? How does that affect the Indian prisoner from Rocky Boy if, in fact, getting a job may be a precondition for release?

Another kind of problem that we have is one of alcohol and drugs, and this is something that all the institutions are saddled with. It's a vicious problem. The statistic is that Montana is fourth in the United States for the per capita consumption of beer alone. I haven't been able to find any statistics for hard liquor consumption. What kind of problem is that creating? It is estimated that 8.5 percent of the population of the State of Montana are alcoholics—about 6,949 people. If this were applied to a disease, we would call it an epidemic, but I'm afraid that there has not been an emphasis on alcohol.

In the film "Beyond Bricks and Mortar," 80 percent of the inmate population had offenses that were related to drugs or alcohol. But what kind of activity are we seeing in the community with regard to this problem? We saw during the last session of the legislature that the alcohol lobby, a very successful and powerful lobby, came in and almost successfully lobbied against a tax measure that would provide some alcohol rehabilitation. As a defense attorney, I find it extremely frustrating to represent a defendant in either State court or Federal court and find that the person's life and the given offense is essentially alcohol-related. It is frustrating to find that alternatives for advising the court on a sentence are either an unrealistic volunteer program for severely dependent persons or incarceration.

Another group are the insane and those who just can't cope. They are the walking wounded. They are people who through insanity are having troubles in society. We also have the phenomenon that we know of as the "loser." Unfortunately, there are a lot of these people around, and there needs to be ways of addressing that problem.

After the announced goal of Montana State government to get women into State government, the women in State government have, in fact, decreased rather than increased. That is reflective of a problem that we are having in Montana. There's been a lot of talk about youth. The lack of alternatives is extremely frustrating to the sentencing juvenile judge.

Another problem that we have in Montana (which I think is unique to the western rural States) is city-county rivalry. We have rivalry between governmental units over who is going to administer programs. A classic example is the defeat of the bill in the last session of the legislature that would put all social welfare services under the State Department of Social and Rehabilitation Services rather than the present split between State and county. I think that old jealousies, old feuds are having a bad impact on what we're doing with our offenders.

How does the "trashcan" approach that we see in government and in the private sector work? The trashcan approach works first of all through more repressive measures. We're seeing that in our justice systems now. Warden Crist cited an extreme population increase in the prison, and to some extent, of course, that's going to be due to the growing population. But I question to what extent it is throwing people into the trashcan. You see throughout the country the move towards the mandatory death penalty, which is a form of trashcan approach. It's a very nice plea bargaining tool for a prosecutor to say to a defense attorney, "Your man's facing the death penalty; he's facing hanging. Why don't you plead him out to a minor offense or a lesser offense?"

We have the problems of whether our institutions are to be detention rather than rehabilitation facilities. We have legislative apathy. We have the approach of the present United States Supreme Court, which is purveying noninterference in traditional civil rights areas. Everybody, whether it be a governmental group, a private group, or a group such as the American Civil Liberties Union, needs somebody monitoring our facilities to keep us honest. And I feel that the Federal courts are not, in fact, enforcing that obligation.

Another problem we have in Montana is that article 2, section 28 of our constitution provides that once a person is convicted, there is a right to treatment appropriate with that person's needs. I was talking with Representative Holmes earlier, confirming whether or not the Montana Legislature had addressed this problem, and she confirmed my suspicion that it, in fact, had not.

We have a lack of minimum standards. When you take a look at our Montana codes, you have quite a bit on sentencing, and you have quite a bit on crimes. You have very little on mandated treatment, either in institutional facilities or outside the institutional facilities.

The only solution that I can offer for a more immediate approach in corrections is to take a look at minimum standards and try to get them adopted. I think minimum standards are helpful to institutions. States such as Connecticut have not only adopted model codes for prison discipline, but have set up ombudsman agreements for the prisoners. I think that these kinds of things should be discussed and should be used as an approach.

Roger Crist, Warden, Montana State Prison

The State of Montana has approximately 750,000 people located in a huge geographic area. For 20 years, attempts had been made to build a new prison to replace a 106-year old territorial prison. Five major studies at a cost of over $300,000 were made over a period of time, and lo and behold, they all recommend that we ought to get out of that old monstrosity and build a new institution.

The prison administration recognized right from the start that the architects were given an extremely difficult task in view of the relatively small amount of money available, $5.5 million. When I say relatively, let me try to put that in perspective for you. The Idaho institution that was finished a few years ago cost $20 million. The one being proposed in Wyoming, that they're working on right now, is costing $30 million. The one in Minnesota will be $50 million.

This meant that a great deal of planning and innovative thinking had to be done. The project would have been completely impossible, except that we were able to remodel or add on to three existing buildings. The prison owned the land, the basic road and utilities were in, and the support buildings such as warehouses, slaughterhouse, dairy, and motor vehicle center were already in existence, so we were able to build on those.

The question has been asked, why the Deer Lodge Valley? Why not Billings or Great Falls? One of the primary reasons is pure and simple economics. There was probably a $5 million base already there that would have been very difficult to walk away from, when you considered the amount of money we had available.

The new prison had to be all things to all people, with a small State population, a low tax base, and our relatively small number of inmates. People keep on referring to Deer Lodge as a large prison. Deer Lodge is not a large prison. I was a deputy warden in a prison that had 1,300. San Quentin has over 2,000. Jackson, Michigan, has got 6,000. So when you're talking about 550, you're talking about, nationally, a relatively small prison There is no way, economically speaking, that a number of institutions could be built to house men in specific classifications.

The larger States have one maximum security institution, one medium. Our new prison had to be designed to house maximum, close, medium, and minimum security inmates within one facility. The concept of separate housing units with more staff and more rules or regulations, depending on the degree of security involved came into effect. We call this "responsible living." And, in effect, the housing units were designed in such a way that the more responsibility a man could accept, the more freedom he would have.

One of the problems that plagued the old Montana State Prison and, for that matter, every penal institution in the country was the inability to separate individuals. In other words, there is a need to separate the old from the young, the aggressive from the nonaggressive, the sex offender from the non-sex offender, and the criminally sophisticated individual from the nonsophisticated individual.

The new Montana State Prison is designed in such a way that there is a maximum security building. There will be close security units with medium security units and minimum security units, at the present time. The maximum security building was a traditional type of architecture. It provided for five units within that building, ranging in size from a 4-man unit to a 14-man unit. The medium security and the minimum security units were identical, in terms of physical construction. They consisted of three-story units divided into four eight-man units on each floor. Some people like to refer to this as the "Deer Lodge Hilton." I don't think these guys over here think it's the Deer Lodge Hilton.

This three-story building is tied to a one-story commons building by an ornate wall. It's not the typical prison wall—it's precast concrete and defines the parameters of that particular unit. Between the two buildings created by this ornamental wall is a yard for each unit. This yard area gives the inmates a choice—if he does not want to involve himself with the entire inmate population on the big recreation yard, he can stay in his own unit and still be in an outside yard.

Each floor of the three-story housing unit is broken down into four eight-man units. These consist of eight single rooms and these are rooms, not cells. They come out on a common dayroom. The unit has common toilet and shower facilities as well as a common counseling room. Using the institution classification system and this type of design, we have been able to bring about a maximum amount of separation, based on inmates' ability to assume responsibility for their own actions.

We wanted to provide a comfortable, free style, visiting environment for those inmates who could accept the responsibility, but we also saw a need to provide tight security visiting for those people who could not accept that responsibility. This was accomplished by building a large visiting room where inmates classified as close, medium, or minimum security could visit freely. Maximum security inmates visit in a maximum security building under strict security procedures. That unit is built in such a way that while the visitors were in the maximum security building, they cannot go on to the rest of the building. Inmates classified as medium or minimum security, after checking with the officer, in good weather can go to an outside picnic-type area. Adjacent to that visiting room is a security-type visiting room.

We wanted our treatment staff to be involved with our security staff in a unit treatment management approach. The four separate housing units based on security classification allowed us to take treatment personnel out of the traditional administration building and place them in the commons buildings in direct relationship to the housing units. The treatment staff, working in conjunction with the security staff, then became part of the treatment management team that would, in effect, run the unit. A unit classification team made up of both treatment and security staff would administer all matters pertaining to the unit. Where their recommendations crossed unit lines, the recommendations had to be approved by the institution classification committee. In other words, before a man could be transferred from A unit to B unit, it would take the institution classification committee approval. Before he could be transferred from one job to another, it would take the institution classification review.

It was felt that a certain degree of autonomy should be given to the staff actually working in the units. But we could not allow four separate institutions to develop in some haphazard manner. That's why the overview was made by the institution classification committee. We wanted facilities for treatment offices, individual therapy, group therapy, religious programs, vocational programs, academic programs, and recreation. In order to accomplish this, almost all of the treatment rooms in the institution were set up in such a way that they could be multiple-use rooms. In other words, one academic teacher would also have to use the same room as a vocational education teacher.

We wanted more contact between the key staff, the line staff, and the inmates. The institution was designed in such a way that there would be no interviews with inmates in the warden's office, the deputy warden's office, the associate warden's office, or in the offices of any other key staff. When interviews are held, they're held in the back of the institution. That assures us that key staff, including the warden, are made to see what is going on. They're seeing the people that have requested to see them, and they're meeting other staff and inmates on the way.

Another thing we did by design was to put in a staff lounge and designate two coffee break areas in the institution. One is in the staff lounge and the other is in the staff dining room. And we took coffee pots away from staff in all the other places. The reason we did that was because in the old institution the social workers were having their coffee break with social workers; teachers were having their coffee break with teachers; security staff was having their coffee break with security staff. Now with only two coffee break areas in the institution, these people come together and learn more about the other person's area of responsibility and the other person's interest.

Montana, like all States, has experienced an extreme prison population increase. When we first started planning the institution, we had a steady 5-year downward trend in terms of prison population. But since 1972 our population has more than doubled, and we have a current population of 553 today. In 1975 we experienced a 10 percent population increase and in 1976 a 29 percent increase. We now find outselves in a position where the institution was designed for 334, to reflect the earlier downward trend, and we have over 200 inmates still in the old institution. This will be rectified in May of 1979, when our architects and contractors tell us that the units at the new prison will be ready. Then we'll completely abandon the old institution and town. It's going to be turned over to the city of Deer Lodge. We're giving it to the city.

In the Montana State Prison, I would emphasize that what we have attempted to do is bring together the philosophy, the program, the physical plant, and a budget in a meaningful sort of a way. The Montana State Prison is not a cure-all; it's not going to take the place of parole; it's not going to take the place of community corrections. All of these things are still needed.

B.J. Rhay, Administrator, Montana Division of Corrections

The purpose of the Division of Corrections is to develop and administer an integrated corrections program for adults and juveniles, while providing individualized treatment for each offender requiring institutionalization. For those incarcerated, adequate security must be maintained to protect the offender and prevent further transgressions against the public, through adherence to the concept that service should be provided by the private sector whenever practical. However, these resources should be supplemented and augmented by private programs that are coordinated at every delivery level. This would include a cooperative effort by all Federal, State, and local agencies to insure maximum impact on the client.

To effectively discharge its duties and responsibilities, the division of corrections must provide adequate supervision and services to the courts of Montana. This enables those courts to utilize probation to the maximum extent possible. It must develop pretrial diversion and bail programs for selected offenders and provide for the confinement and rehabilitation of adults in program-oriented correctional facilities.

The division must provide for the confinement and rehabilitation of juveniles in institutions with individualized treatment programs which emphasize academic and prevocational training and develop community corrections centers and expand community-based alternatives to incarceration to facilitate successful reintegration of the offender into society. This would include the maximum use of parole. It should establish and implement progressive staff development and training programs and develop a research and evaluation capacity to determine the achievement of specific results and the efficiency of various treatment methods offered to the offenders.

Such a correction division ought to develop and utilize modern management techniques to ensure more effective and efficient use of available resources. To achieve these goals, the division of corrections provides care and custody services, developmental services, community services, and administrative services through four institutions and three bureaus. They are the Montana State Prison, Pine Hill School, Mt. View School, Swan River Youth Forest Camp, the Bureau of Community Services, the Bureau of Aftercare, and the Bureau of Probation and Parole. The purpose of the community corrections bureau is to develop and administer programs within the community for the resocialization of the adult offender.

Developmental services provide individualized treatment plans for each client to meet the physical, intellectual, and emotional needs of each person as they pass through the program. It is essential that society be protected from harmful offenders, while at the same time offenders be provided with structured programming that will alter their behavior.

Community corrections operates on the basic assumption that an individual has come into his predicament through his own irresponsible behavior. It is the goal of the community services bureau to provide care, custody, and programming for restructuring behavior of adjudicated adults within the community. Since arriving in Montana, I have become acquainted with some very important things that are happening here. Governor Judge appointed the Montana Council on Criminal Justice Standards and Goals to adopt a set of stan-

dards and goals for the improvement of Montana's criminal justice system. Five task forces were appointed: law enforcement, the courts, corrections, information system, and community crime prevention. The corrections report was published in July 1976. Those standards and goals can form a solid foundation for an emerging corrections division. A discretionary grant of over $103,000 came from LEAA, $91,000 of which was from Federal funds and over $10,000 from State funds, to develop a master plan for Montana corrections. The objectives of a master plan are six-fold:

- A comprehensive master plan that will unify the correctional system and provide integration of programs.
- A blueprint for correctional action.
- A management tool to provide logical directions to Montana corrections.
- A document for legislative action.
- Clear, definable goals and objectives, a plan for the future.
- An encyclopedia of resources currently available.

I consider myself in a lucky position to arrive in Montana during a time when a new, less than 2-year-old Division of Corrections is emerging. It is emerging without some of the old prejudices, barnacles that long-established correction divisions naturally acquire. It is my hope that the development of the master plan will show clear directions, not only to the legislature and the funding organizations but to all the citizens of the State of Montana.

Curt Chisholm, Deputy Director, Department of Institutions

I consider the role of the Department of Institutions a very enviable one relative to the theme of this particular conference, not because of the power or the prestige or the importance of our department in its role as a human service provider in the State of Montana, but primarily because of the perspective we gain in our department relative to the theme of this particular conference. Not only do we operate the bulk of correctional programs and responsibilities in the State of Montana, but we also have a counterpart role in providing services to the mentally ill, to the developmentally disabled, to the aging, and to people afflicted with drug and alcohol addiction.

For many years our programs were institutional programs. The persons with severe problems were removed from contact with normal society, and the problems of society were therefore reduced. However, recent court decisions and legislative action have, in effect, removed easy access to institutions as a remedy. We have, in effect, established conditions which make the traditional focus of the interest of society almost secondary to the interest of the individual. In the final analysis, most of the recent pressure on human services programs derives from Federal court decisions and recent State and Federal legislation which established the right of individuals to treatment and the right of those individuals to treatment in environments which impose the least possible restriction on individual freedom.

The pressures for reform that have resulted from these court decisions, legislation, and changes in public values present a challenge to the human service administrators. Arranging individual rights and freedom in harmony with public rights to protection and freedom from burdensome dependencies has probably always presented something of a paradox to us. But recent major emphasis on individual rights has greatly affected individuals, agencies, and institutions. Rather suddenly, established concepts and practices are being found in violation of the Constitution. We are struggling with a need to develop concepts, to develop organizational techniques and resources that satisfy currently constitutional interpretation.

In our department a major concern with individual rights versus public rights may be analyzed as including special concern for individuals who are involved in the correctional system and also all casualties of social, educational, and economic deficiencies—the severely handicapped and those who are not competent, including those who are dangerous or potentially dangerous to themselves or to others.

These changes, because of recent legislation in Montana, especially, appear to have been abrupt. In fact, the changes have been predictable for many years. In Montana, many of our State and local agencies have been quietly developing local and regional programs which provide treatment in minimally restrictive environments. Our regional mental health center began in 1947, and in the last 10 years our efforts in providing community men-

tal health services have grown in sophistication, complexity, and cost. Our aftercare program has been operating for a number of years. The courts use of our parole and probation agencies has been in effect for a number of years.

Current correctional trends recognize the rights of the incarcerated and those involved in the criminal justice system and the need to deinstitutionalize that general population. They rest on the principle of normalization—prevention, return to the community of all residents who have been rehabilitated, and establishment and maintenance of a responsive residential environment.

Gary Quigg, Inmate, Montana State Prison

I was arrested August 2, 1969, and I've been incarcerated ever since that date. I'm attempting to get out and I've been attempting to do so ever since my original incarceration. Unlike most of the other speakers here, I don't have any credentials or titles or any professionalism to throw out, and what you're going to hear from me is a different point of view than has been expressed by the warden and the other people from the different institutions.

We weren't given any instructions when we came down except to tell it like it is, and that's what I'm going to try to do. My point of view is that some of the problems at the prison that we encounter are brought on by the guards. I'm not sure that the warden is aware of what goes on in the everyday running of the prison and in the interaction between the prisoners and the guards themselves.

We hear a lot about due process and equal protection of the laws in regards to different courts decisions. Last week there was an eight-man unit in A unit which was placed in segregation because they found a bucket of home brew being brewed in the living quarters of the unit. The guards were unable to determine who it belonged to so they punished all eight people.

Our grievance system at the prison is vastly inadequate. We have to go through a long, drawn-out process to get any kind of results. Our results from the Department of Institutions have been very unimpressive. I'm not impressed with the Governor's office or the Department of Institutions. An example came down recently. We had a problem with the guards harassing people by making them wear a belt with their prison issue clothes. A lot of the people didn't want to do that. So I originally wrote to Larry Zanto, as the Department of Institution's director, and he referred me back to the prison through prison channels. I realized that would be an effort in futility, but I went ahead and did what he requested. We filed formal complaints within the prison system, alleging that this wearing of a belt was just harassment technique by the guards, because if they saw you without a belt they'd tell you to go put it on. If you didn't put it on, they'd give you a writeup or give you a lockup.

The prison administration said that we were going to keep the rule. I appealed their decision to the Department of Institutions. The department's corrections division sent me a letter back stating that we were required to wear a prison belt "for the security of the prison and the safety of the inmates." I wrote back and I asked them what that could possibly have to do with any of those things, and I didn't get any reply.

The judges and the supreme court justices from this State recently toured the State prison. The judges asked us what type of law materials and legal books we needed. I told them and they promised some of those would be forthcoming, but we haven't got any volumes yet. The judges' wives came in on a separate tour right after that and they promised us boxes of books. We haven't seen any of those either. The fact is they haven't even corresponded since then.

I've been impressed at this conference by the many good ideas and the proposals presented by the different speakers, but I see a need to have them made into a coordinated effort of implementation, rather than just one or two people doing one thing and one or two doing another. Most of the prisoners work toward their different goals and we hope for the best, but we expect the worse.

Dennis Plouffe, Director,

North American Indian League, Montana State Prison

The new Montana prison was occupied in March of this last year. At that time 335 people moved out to the new prison, and approximately 180 were left in the old prison. The old prison was found to be inadequate. It wasn't a healthy place to keep a prisoner. That's why they built the new

prison; that was their whole idea, the whole concept of it. When we left the prison to come to this conference, 216 men were still there, still living under those conditions that were ruled unsatisfactory.

When the new prison was built, the social services, the clinical services, the hospital, and all the vocational training programs went to the new prison. At that time, 180 guys were left in the old prison with nothing to do but sit around and think, unless you wanted to work in the kitchen—you could have a 2-hour shift in the kitchen waiting on tables or swabbing the floor or some type of thing like this for 30 cents a day or 50 cents a day. And right away we started complaining through the inmate complaint system, using proper procedure. You complain to this guy, he complains to the one above, and you write out this form and send it in. Three months later you get an answer back that doesn't even have anything to do with the first complaint. So we took it upon ourselves to complain to Mr. Zanto, who was then head of the Department of Corrections, as I understood it, and wrote him a letter requesting that either somebody from his office or he himself come down and hear our complaints.

The warden was on a trip but came back and sent me a request that he would like to meet with the officers of the North American Indian League. We met with him, presented all our allegations, complaints, and whatnot, and at that time he satisfied myself and five other officers of the North American Indian League that steps were being taken to correct allegations such as harassment by the staff. We wanted our complaints known outside the prison, because in each and every complaint or allegation we felt that, although the warden satisfied us and he was doing what he could, it was either his budget, his supervisors, the Department of Institutions, or somebody above him that was preventing him from doing any more.

Which brings me to the North American Indian League. As the records will show, 98 percent of the Indian men are in prison because of an alcohol- or drug-related crime. Currently, we have 80 Indian inmates in both prisons. The records also will reflect that the Indian population is almost five times more then it should be if all things were equal. Now, what we mean by that is that adequate legal advice when you're arrested on the reservation or in the city, or whatever, isn't provided for an Indian. On the average, the Indian inmate in Montana State Prison is 22-1/2 years old, has a ninth grade education, and stays in prison an average of 2 years and 2 months. The average sentence of an Indian inmate is 16-1/2 years.

A matter of importance to the Indian in prison is religion. Much talk goes on about the Native American church, but little is actually known here about it, simply because we have not been able to get the people in to help us, even though we have tried. I don't think you'll find an Indian in prison who doesn't believe in God, but God to us is the Great Spirit. The Indian goes to prison alone; he serves his sentence alone; is released alone. He is an individual and that is what we wish to concern ourselves about—the individual person, his wants, his needs, and his capabilities.

So as we look at various prison programs and other activities—keep in mind that all our efforts should have enough flexibility to help each individual meet his own responsibilities in his own way. Each and every program that the North American Indian League works on must be cleared with the prison, both inside and outside activities. We've got to meet their administrative and security requirements before we're allowed to proceed with anything. That hampers us in a lot of ways, because we've got to take twice as much time to get the results that somebody on the streets could get with a phone call, or whatever, or writing a letter.

The North American Indian League is associated with nearly every Indian organization in the State of Montana and several non-Indian organizations. We wouldn't be what we are in there now if it wasn't for these outside people. When two or three convicts get a good idea, they aren't going to get anyplace unless they get somebody on the streets that's going to help them and back them.

When Swift Bird was brought up, everybody wanted an application to go to Swift Bird. Then we got the requirements for Swift Bird—first offenders, nonviolent crimes, less than a year. We took a look at our own Indian population and we had only 2 guys out of 80 who would have met the eligibility requirements to go to Swift Bird. I hope something is going to be done in the future to change that, because Swift Bird is a good idea. We

have our own little Swift Bird going over at the prison—it's called the North American Indian League. I appreciate the opportunity to come down here and tell you people about it.

John Maynard, Legal Intern Montana Defender Project, Missoula

For the past 10 years the University of Montana Defender Project has given legal assistance to inmates in post conviction matters. Last April the Supreme Court of the United States issued a decision which mandated that each State provide a system whereby people incarcerated in State institutions could have access to the courts to attack violations of their civil rights. In June a hearing was held in Helena, Montana, and the procedure for developing this program was initiated. The University of Montana is now charged with the responsibility of representing inmates at the Montana State Prison in civil rights actions.

Under the Montana Student Practice Rule and the Federal Student Practice Rule, senior law students are able to represent persons in all of the court systems, and in addition to this, an attorney has been hired at the law school to undertake this program and to direct it. He began work last Monday and will be pursuing these actions in the future. The program is just beginning, in its very initial stages, and we would appreciate any kind of input that we can get from whatever source, so that we can develop a comprehensive program that will effectively and responsibly deal with the concerns with which we are charged.

Mike Bear Comes Out, Juvenile Probation Officer, Northern Cheyenne Tribe, Lame Deer

In working with juveniles who have been processed through the Federal district court of Billings, we have problems when they get out. I'd like to tell you about a case and maybe you could take it from there.

We had a juvenile who was on Federal probation, and he was sent to Littleton, Colorado, for a 6-month evaluation. Then he was returned back to the reservation, but we don't have any way of working with Federal juvenile probationers. We don't have any program for them. We don't have a liaison with the Federal probationer. We don't have any workable program for these young people. So I'd like to ask the U.S. Commission on Civil Rights to look into this problem for us. If you need anything from my tribal government to get this going, we'd be happy to try to get it for you.

Another problem I'm concerned about is the Black Wolf case in the Montana State Supreme Court, which decided that Cheyenne kids could no longer be committed to State institutions. Neither the Federal Government nor the tribal government have ever provided us with a facility or with a program to rehabilitate our own juveniles on our reservation. We feel that we will need these things soon.

Once when some people were discussing our society's goals, I heard one of the non-Indians say that society's goals are always changing and that values are always changing. But my grandfather had always explained to me that our values and our traditions have always been the same since the beginning of time. Yet here these people were talking as though the Cheyenne values and Cheyenne traditions were changing too.

Well, what I'd like to say is that our people always say, before you can talk about the shortcomings of other people, look to your home and look to your family, and if you have overcome your shortcomings, then maybe you can speak. And that's what I'd like to say to the Federal Government—why don't you look to your system of corrections before you come onto our reservation and take our kids away from us and try to rehabilitate them? You don't have the answers to deal with our young people. I think we have our own answers. And this is what I'd like to leave with this conference. We're trying to deal with our social problems. We understand our situation much better than anybody else. We also know that we can't do any worse than what has already been done and what is being done. I think this is the attitude of our people.

When we grew up and we were found to have done something wrong, we never had to pay a debt to "society." Our guilt was never paid back to society. Instead, when we were guilty of something, we had a chance to pay the debt to ourselves. We lived with our guilt but we tried to learn from our mistakes.

On our reservation we're trying to get our stuff together and trying to handle our own problems. I think this is a good, positive outlook that anybody should have if we're going to work together in solving our own problems

Jackie Crawford suggested that, since fewer women than men are imprisoned, a comprehensive service center handling all problems encountered by female offenders would better utilize available resources. The unique needs of women offenders could be more effectively met through such a center funded by the State. Robert Frazier said that penal institutions do not meet the rehabilitative needs of Indian offenders because correctional theories and practices were developed with the non-Indian offender in mind. As a result, Native Americans, already disproportionately represented in most prisons (of the total prison population in Montana, 33.3 percent is Indian with 3.7 percent Indian representation in the State population), are often denied parole and retained longer than their non-Indian counterparts. James Zion said that the Montana Legislature has failed to address the issue of convict's right to treatment appropriate with their needs, as set forth in article II, section 28 of the Montana Constitution. He said he thought that the U.S. Supreme Court has supported the lack of civil rights monitoring in the country through its policy of noninterference in traditional civil rights areas. Gary Quigg was highly critical of the prison's grievance procedures, which he said are unnecessarily cumbersome because of the redtape inherent in the chain-of-command. Dennis Plouffe agreed and also said that Indian offenders are denied the unique rehabilitative services of the Swift Bird Project (an Indian culture-related program) because of eligibility requirements. John Maynard sought support for the University of Montana's Defender Project. Mike Bear comes Out, a juvenile probation officer, showed concern that tribal and Federal governments in Montana have not provided the Northern Cheyennes with a juvenile rehabilitation program.

Recommendations

Based on consultation proceedings, the Montana Advisory Committee to the United States Commissionon Civil Rights makes the following recommendations concerning corrections in Montana.

1. The Montana Advisory Committee urges Governor Thomas Judge to implement his plans to establish a task force of corrections experts to develop and put into effect a corrections philosophy for the State within a year of this report. This task force should also inaugurate a program that will inform the public of the goals and standards of Montana's correctional institutions.
2. The Montana Department of Institutions in conjunction with the State Legislature, the State chapter of the American Civil Liberties Union, and the State Bar Association, should immediately conduct a study to explore alternatives to incarceration. This study should look into the practices of parole and disciplinary hearings to determine their rehabilitative value.
3. The Montana Department of Institutions should develop and establish a position of inmate advocate to protect and defend the rights of inmates in the Montana corrections system.
4. Because little or no funds are provided for rehabilitative services, such as treatment for alcholism and drug addiction, the Montana Legislature should increase funding appropriately for corrections rehabilitation and community services programs administering to the needs of offender and ex-offenders.
5. Because the State has no incarceration center for women inmates, the Montana Legislature should allocate funds to the Department of Institutions to establish a comprehensive rehabilitation center that will coordinate services to women offenders.
6. The Montana Department of Institutions should also sponsor a statewide workshop dealing with women offenders and their problems. The department should review its rehabilitation programming for women, removing any barriers leading to disparate treatment of females.
7. The Montana Legislature should modify the concept of *parens patriae* so that juveniles are not treated disparately by the criminal justice system. Laws should be enacted and monitoring agencies or agents (such as a juvenile corrections advocate) should be established to protect the rights of juvenile offenders.
8. In part due to the fact that American Indians are disproportionately represented in the prison population, the Department of Institutions, in cooperation with Indian tribes in Montana, should hire at least one person especially concerned with and responsible for alleviating the cultural and correctional problems of the American Indian offender.
9. Since the Montana penitentiary incarcerates a disproportionate number of Indian people, the Governor, in cooperation with the Indian tribes in the State, should appoint an Indian person to the parole board.
10. Cultural and ethnic differences such as religious values, beliefs, cosmetic needs, and community attitudes in the prison population should be recognized. The Department of Institutions should ensure that a program be established to meet those ethnic and cultural needs. A committee of inmates from various backgrounds should be organized to work with the Department of Institutions to meet those needs. Groups in the community should also be called upon for help and guidance.

APPENDIX A

Consultation on Corrections
Montana Advisory Committee to the
U.S. Commission on Civil Rights
December 13 and 14, 1977
AGENDA

Introductory Remarks---Ernest Bighorn, Jr. Chair, Montana Advisory Committee; Judith Carlson, Governorfs Office; James Gonzales, Billings City Council

Corrections Overview---William Levis, U.S. Commission on Civil Rights

Panel---Rights of Inmates

Moderator: Angela Russell; John Dicke, Regional Counsel, American Civil Liberties Union, Denver; Merle Lucas, Coordinator of Indian Affairs, Helena; Melvin T. Axilbund, Staff Director for American Bar Associationfs Commission on Correctional Facilities, Washington, D.C.

Panel---Legislative Alternatives

Moderator: Paul Spengler; Polly Holmes, State Representative, Billings; Richard Vandiver, Professor, Tom Towe, State Senator, Billings

Panel---Women in Corrections

Moderator: Richard Vandiver; Judith Smith, Director, Womenfs Resource Center, Missoula; Jo Jorgenson, Aftercare, Polson; Tom Emerling, Director, Female Life Skills Training Center, Billings; Richard Vandiver, Professor, University of Montana, Missoula; Ann German, Attorney, Libby

Panel---Juveniles in Corrections

Moderator: Jeannette Ganousis; Mike Meloy, State Representative, Helena; John Dicke, Regional Counsel, American Civil Liberties Union, Denver; Jean Ellison, Deputy County Attorney, Missoula; Jerome Cate, Attorney, Billings; Jeannette Ganousis, Staff Attorney, National Juvenile Law Center, St. Louis, Missouri

Panel---Community Corrections

Moderator: Russel Conklin; Brad Green, Life Skills Training Center, Missoula; Dan Russell, Director, Aftercare Program, Helena; Linda Crummett, County Attorneyfs Office, Billings; Rosemary Boschert, Parole Board, Billings

Panel---Care and Treatment of Juveniles

Moderator: Geraldine Travis; Steve Nelson, Montana Crime Control Board, Helena; Don Roebel, Superintendent, Mt. View School, Helena; Don Holladay, Superintendent, Pine Hills School, Miles City; Melvin Mohler, Superintendent, Swan River Ranch, Swan Lake; Larry Elison, Professor, School of Law, University of Montana, Missoula

Panel---Correction Systems

Moderator: William Levis; Jackie Crawford, Consultant to Department of Prisons, Nevada State Prison; James Estelle, Director, Department of Institutions, Huntsville, Texas; Charles Burgamy, Assistant Warden, Purdy Treatment Center for Women, Gig Harbor, Washington; Robert Frazier, Native American Rights Fund, Boulder, Colorado

Panel---Montanas Correction System

Moderator: James Zion; Roger Crist, Warden, Montana State Penitentiary, Deer Lodge; Bobby Rhay, Administrator, Department of Corrections, Helena; Curt Chisholm, Department of Institutions, Helena; Inmates from Montana State Penitentiary

Open Testimony

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